

FEDERAL REGISTER

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(Part II begins on page 6871)

Agencies in this issue—

Atomic Energy Commission
Business and Defense Services
Administration
Civil Aeronautics Board
Commodity Credit Corporation
Consumer and Marketing Service
Customs Bureau
Federal Aviation Administration
Federal Crop Insurance Corporation
Federal Maritime Commission
Federal Power Commission
Federal Trade Commission
Fiscal Service
Food and Drug Administration
Interstate Commerce Commission
Labor-Management and Welfare-
Pension Reports Office
Land Management Bureau
Public Health Service
Securities and Exchange Commission
Transportation Department
Veterans Administration

Detailed list of Contents appears inside.



How To Find U.S. Statutes and United States Code Citations

[Revised Edition—1965]

This pamphlet contains typical legal references which require further citing. The official published volumes in which the citations may be found are shown alongside each reference—with suggestions as to the logical sequence to follow in using them. Additional finding aids, some especially useful in citing current legislation, also have been in-

cluded. Examples are furnished at pertinent points and a list of references, with descriptions, is carried at the end.

This revised edition contains illustrations of principal finding aids and reflects the changes made in the new master table of statutes set out in the 1964 edition of the United States Code.

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The regulatory material appearing herein is keyed to the CODE OF FEDERAL REGULATIONS, which is published, under 50 titles, pursuant to section 11 of the Federal Register Act, as amended. The CODE OF FEDERAL REGULATIONS is sold by the Superintendent of Documents. Prices of books and pocket supplements are listed in the first FEDERAL REGISTER issue of each month.

There are no restrictions on the republication of material appearing in the FEDERAL REGISTER or the CODE OF FEDERAL REGULATIONS.

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Title 7—AGRICULTURE

Chapter X—Consumer and Marketing Service (Marketing Agreements and Orders; Milk), Department of Agriculture

[Milk Order 12]

PART 1012—MILK IN TAMPA BAY MARKETING AREA

Order Suspending Certain Provisions

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and of the order regulating the handling of milk in the Tampa Bay marketing area (7 CFR Part 1012), it is hereby found and determined that:

(a) Subparagraphs (2), (3), and (4) in § 1012.16(b) of the order do not tend to effectuate the declared policy of the Act for the months of May and June 1967.

(b) Thirty days' notice of the effective date hereof is impractical, unnecessary, and contrary to the public interest in that:

(1) This suspension order does not require of persons affected substantial or extensive preparation prior to the effective date.

(2) This suspension order is necessary to reflect current marketing conditions and to maintain orderly marketing conditions in the marketing area.

(3) This action will suspend for the months of May and June 1967, the provisions that limit the quantity of producer milk that may be diverted to nonpool plants by cooperatives and proprietary handlers. Without the suspension, the order would limit the quantity of producer milk that may be diverted by a cooperative association to 25 percent of all milk of its member producers physically received at pool plants during the month. The same percentage limitation on the diversion of its producer receipts would apply to the operator of a pool plant.

The Independent Dairy Farmers' Association, Tampa Bay Division, requested the suspension. This association markets about 60 percent of the producer milk in the Tampa Bay area.

The diversion limitation has been causing an extreme hardship on the association and disorderly conditions in the market. The association performs the role of balancing the milk supplies for the entire market. In doing so, substantial quantities of member milk, which must currently be disposed of to surplus outlets, would otherwise have to be kept out of the pool because of the diversion limitation. This would result in lower returns to the association's members relative to other producers on the market.

(4) Interested parties were afforded opportunity to file written data, views, or arguments concerning a proposed termination of the aforesaid provisions (32 F.R. 6206). Opposition to the proposed termination was expressed by certain producers. Such persons, however, have advised that they do not oppose a suspension of these provisions for the period proposed.

Therefore, good cause exists for making this order effective May 1, 1967.

It is therefore ordered, That the aforesaid provisions of the order are hereby suspended for the period May 1, 1967, through June 30, 1967.

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674)

Effective date: May 1, 1967.

Signed at Washington, D.C., on May 1, 1967.

GEORGE L. MEHREN,
Assistant Secretary.

[F.R. Doc. 67-4995; Filed, May 3, 1967; 8:48 a.m.]

[Milk Order 127]

PART 1127—MILK IN SAN ANTONIO, TEX., MARKETING AREA

Order Suspending Certain Provision

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and of the order regulating the handling of milk in the San Antonio, Tex., marketing area (7 CFR Part 1127), it is hereby found and determined that:

(a) The following provision of the order no longer tends to effectuate the declared policy of the Act for the period from April 1, 1967, through June 30, 1967:

The provision contained in § 1127.11 which reads: "Provided, That if the days of production of such person for which milk is diverted exceed one-third of the days of production that milk is delivered to a pool plant during the month, such milk shall cease to be producer milk for the entire period of such diversions."

(b) Notice of proposed rule making, public procedure thereon, and 30 days notice of the effective date hereof are impractical, unnecessary, and contrary to the public interest in that:

(1) This suspension order does not require of persons affected substantial or extensive preparation prior to the effective date.

(2) This suspension order is necessary to reflect current marketing conditions and to maintain orderly marketing conditions in the marketing area.

(3) This suspension order is necessary to provide for the orderly disposal of producer milk excess to fluid milk needs by removing a limitation on diversions of

such producer milk to manufactured product uses at nonpool plants. Much of the reserve milk for this market has been handled at pool plants operated by cooperative associations where it was used in the manufacture of semiprocessed cheese which is shipped to distant points for final processing. The outlet for this semiprocessed cheese is not currently available, so that larger quantities of producer milk must be diverted in the months of highest seasonal production to nonpool plants under the producer milk diversion provisions of the order.

(4) This suspension order is supported by cooperative association handlers whose members deliver more than 90 percent of the total producer milk in this market and by other handlers operating pool plants.

Therefore, good cause exists for making this order effective April 1, 1967.

It is therefore ordered, That the aforesaid provision of the order is hereby suspended for the period of April 1, 1967, through June 30, 1967.

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674)

Effective date: April 1, 1967.

Signed at Washington, D.C., on May 1, 1967.

GEORGE L. MEHREN,
Assistant Secretary.

[F.R. Doc. 67-4996; Filed, May 3, 1967; 8:48 a.m.]

[Milk Order 134]

PART 1134—MILK IN WESTERN COLORADO MARKETING AREA

Order Suspending Certain Provisions

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and of the order regulating the handling of milk in the Western Colorado marketing area (7 CFR Part 1134), it is hereby found and determined that:

(a) The following provisions of the order no longer tend to effectuate the declared policy of the Act for the months of May through September 1967:

In § 1134.12(b) (1) the following: "for at least 5 days", and "without limit during the other days of such month", relating to the diversion of milk for the account of a cooperative association.

(b) Thirty days notice of the effective date hereof is impractical, unnecessary, and contrary to the public interest in that:

(1) This suspension order does not require of persons affected substantial or extensive preparation prior to the effective date.

(2) This suspension order is necessary to reflect current marketing conditions

and to maintain orderly marketing conditions in the marketing area.

(3) This suspension will enable the cooperative association to maintain producer status under the order for its membership pending a hearing which it has requested to consider amendment of the diversion provisions of the order to conform to current marketing conditions in the Western Colorado marketing area. The members of the cooperative association are the principal suppliers of milk to handlers regulated by the order. Unless this action is taken, the producer status of many of the cooperative's members will be jeopardized in the coming months, and disorderly marketing conditions will result for them.

(4) Interested parties were afforded opportunity to file written data, views, and arguments concerning this suspension (32 F.R. 6206). None was filed in opposition.

Therefore, good cause exists for making this order effective upon publication in the FEDERAL REGISTER.

It is therefore ordered, That the aforesaid provisions of the order are hereby suspended for the period May 1 through September 31, 1967.

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674)

Effective date: Upon publication in the FEDERAL REGISTER.

Signed at Washington, D.C., on May 1, 1967.

GEORGE L. MEHREN,
Assistant Secretary.

[F.R. Doc. 67-4997; Filed, May 3, 1967; 8:48 a.m.]

Chapter XIV—Commodity Credit Corporation, Department of Agriculture

SUBCHAPTER C—EXPORT PROGRAMS

PART 1488—FINANCING OF SALES OF AGRICULTURAL COMMODITIES

Subpart A—Financing of Export Sales of Agricultural Commodities From Private Stocks Under CCC Export Credit Sales Program (GSM-4)

Correction

In F.R. Doc. 67-4729, appearing in the issue for Thursday, April 27, 1967, at page 6496, make the following changes:

1. In § 1488.2(x), "GSN-4" should read "GSM-4".

2. In § 1488.5, line 7, the word "amount" should read "account".

3. In the footnote 1 appearing at the end of the third column, page 6499, the word "area" in line 6, should read "areas".

4. In § 1488.11, the fifth sentence should read: "If such evidence is not furnished within the time specified, the financing agreement may be terminated by the General Sales Manager and on such termination, if payment under the bank obligation or account receivable has not yet been received, at the option of CCC the bank obligation and the ac-

count receivable shall become due and payable."

5. The Acting Vice President's signature should read "D. M. Rubel".

Title 10—ATOMIC ENERGY

Chapter I—Atomic Energy Commission

PART 10—CRITERIA AND PROCEDURES FOR DETERMINING ELIGIBILITY FOR ACCESS TO RESTRICTED DATA OR DEFENSE INFORMATION

Use of Narcotic or Hallucinogenic Drugs for Nonmedical Purposes

On January 10, 1967, the Atomic Energy Commission published in the FEDERAL REGISTER (32 F.R. 234) proposed amendments of its regulation, 10 CFR Part 10, "Criteria and Procedures for Determining Eligibility for Access to Restricted Data or Defense Information", which would clarify, among the security criteria, the one concerning the habitual use of drugs by making it apply explicitly to narcotic and hallucinogenic drugs, and would include as an additional element to be evaluated the single or occasional use of narcotic or hallucinogenic drugs, except as prescribed or administered by a licensed physician.

All interested persons were invited to submit written comments and suggestions for consideration in connection with the proposed amendments within 30 days after publication of the notice of proposed rule making in the FEDERAL REGISTER. Upon consideration of the comments submitted in response to the notice of proposed rule making, none of which opposed the proposed changes, the Commission has adopted the amendments set forth below. These amendments are the same as the proposed amendments published for comment.

Pursuant to the Atomic Energy Act of 1954, as amended, Executive Orders 10450 and 10865, and the Administrative Procedure Act of 1946, as amended, the following amendments of 10 CFR Part 10 are published as a document subject to codification, to be effective upon publication in the FEDERAL REGISTER.

1. 10 CFR Part 10, § 10.11, paragraph (a) (9), is amended to read as follows:

(9) Been, or is, a user of narcotic or hallucinogenic drugs habitually, without adequate evidence of rehabilitation.

2. 10 CFR Part 10, § 10.11 is amended to delete the period at the end of paragraph (b) (11) and substitute a semicolon therefor, and to add an additional paragraph (b) (12), reading as follows:

(12) Has used a narcotic or hallucinogenic drug, except as prescribed or administered by a physician licensed to dispense drugs in the practice of medicine.

(Sec. 145, 68 Stat. 942; 42 U.S.C. 2165; sec. 161, 68 Stat. 948; 4 U.S.C. 2201; E.O. 10450, 18 F.R. 2489; 3 CFR, 1949-53 Comp., p. 936; E.O. 10865, 25 F.R. 1583; 3 CFR, 1959-63 Comp., p. 398)

Dated at Washington, D.C., this 26th day of April 1967.

For the Atomic Energy Commission,

W. B. McCool,
Secretary.

[F.R. Doc. 67-4989; Filed, May 3, 1967; 8:48 a.m.]

Title 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission

[Docket No. C-1192]

PART 13—PROHIBITED TRADE PRACTICES

Crown Tuft, Inc., et al.

Subpart—Misbranding or mislabeling: § 13.1185 Composition: 13.1185-80 Textile Fiber Products Identification Act; § 13.1212 Formal regulatory and statutory requirements: 13.1212-80 Textile Fiber Products Identification Act. Subpart—Neglecting, unfairly or deceptively, to make material disclosure: § 13.1845 Composition: 13.1845-70 Textile Fiber Products Identification Act; § 13.1852 Formal regulatory and statutory requirements: 13.1852-70 Textile Fiber Products Identification Act.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46, Interpret or apply sec. 5, 38 Stat. 719, as amended; 72 Stat. 1717; 15 U.S.C. 45, 70) [Cease and desist order, Crown Tuft, Inc., et al., Dalton, Ga., Docket C-1192, Apr. 11, 1967]

Consent order requiring a Dalton, Ga., manufacturer of carpet rolls to cease misbranding its textile fiber products.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows:

Order. It is ordered that respondents Crown Tuft, Inc., a corporation, and its officers, and Arthur B. Lauman and James C. Barbre, individually and as officers of said corporation, and respondents' representatives, agents, and employees, directly or through any corporate or other device, in connection with the introduction, delivery for introduction, manufacture for introduction, sale, advertising, or offering for sale, in commerce, or the transportation or causing to be transported in commerce, or the importation into the United States of any textile fiber product; or in connection with the sale, offering for sale, advertising, delivery, transportation, or causing to be transported, of any textile fiber product, which has been advertised or offered for sale in commerce; or in connection with the sale, offering for sale, advertising, delivery, transportation, or causing to be transported, after shipment in commerce, of any textile fiber product, whether in its original state or contained in other textile fiber products, as the terms "commerce" and "textile fiber product" are defined in the Textile Fiber Products Identification Act, do forthwith cease and desist from misbranding textile fiber products by:

1. Falsely or deceptively stamping, tagging, labeling, invoicing, advertising, or otherwise identifying such products as to the names or amount of constituent fibers contained therein.

2. Failing to affix labels to such textile fiber products showing in a clear, legible and conspicuous manner each element of information required to be disclosed by section 4(b) of the Textile Fiber Products Identification Act.

3. Failing to designate on labels any fiber or fibers, present in the amount of less than 5 percentum of the total fiber weight of such textile fiber products, by the term "other fiber" or "other fibers," except as permitted by section 4(b) of the Textile Fiber Products Identification Act.

4. Setting forth required information on labels in an abbreviated form in violation of Rule 5(a) of the rules and regulations, in instances other than as permitted by Rule 33(d) of such rules and regulations.

5. Setting forth a generic name or fiber trademark on a label without making a full and complete content disclosure the first time the generic name or fiber trademark appears on the label.

It is further ordered, That the respondents herein shall, within sixty (60) days after service upon them of this order, file with the Commission a report in writing setting forth in detail the manner and form in which they have complied with this order.

Issued: April 11, 1967.

By the Commission.

[SEAL] JOSEPH W. SHEA,
Secretary.

[F.R. Doc. 67-4960; Filed, May 3, 1967;
8:45 a.m.]

[Docket No. 6412]

PART 13—PROHIBITED TRADE PRACTICES

David Crystal, Inc.

Subpart—Advertising falsely or misleadingly: § 13.235 *Source or origin*: 13.235-60 *Place*: 13.235-60(a) Domestic products as imported. Subpart—Misbranding or mislabeling: § 13.1325 *Source or origin*: 13.1325-70 *Place*: 13.1325-70 (a) Domestic products as imported.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45) [Modified order to cease and desist, David Crystal, Inc., New York, N.Y., Docket 6412, Apr. 7, 1967]

Order modifying a cease and desist order, issued February 21, 1966, 21 F.R. 1560, against a New York City manufacturer clothier by allowing the use of the designation "London" in advertising and labeling, provided there is a clear disclosure that the garments are made in the United States.

The modified order to cease and desist, is as follows:

It is ordered, That the respondent, David Crystal, Inc., a corporation, its officers, agents, representatives, and employees, directly or through any corpo-

rate or other device, in connection with the offering for sale, sale, and distribution of wearing apparel in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing directly or by implication that the country of origin of the design or manufacture of respondent's wearing apparel is England or any other part of the British Isles, or any other country, if such is not the fact.

2. Using any pictorial representation which simulates in appearance the British Royal Coat of Arms unless accompanied by clear and conspicuous language indicating country of origin.

3. Using the word "London" in the advertising or labeling of said wearing apparel without clearly and conspicuously disclosing that the wearing apparel is styled and manufactured in the United States of America.

4. Using the word "Limited," or its abbreviation "Ltd.," to designate, describe or refer to any wearing apparel which respondent manufactures or designs unless the word "Limited" or its abbreviation "Ltd." is used as part of the name of a corporation actually in existence.

5. Using the phrase "By Appointment to H.M. the Late King George VI" or any other words or phrases of similar import to designate, describe or refer to any wearing apparel which respondent manufactures, sells and distributes unless said wearing apparel is designed or manufactured in England or the British Isles.

It is further ordered, That the respondent herein shall, within sixty (60) days after service upon it of this order, file with the Commission a report, in writing, setting forth in detail the manner and form in which it has complied with the order to cease and desist set forth herein.

Issued: April 7, 1967.

By the Commission.

[SEAL] JOSEPH W. SHEA,
Secretary.

[F.R. Doc. 67-4961; Filed, May 3, 1967;
8:45 a.m.]

[Docket No. C-1191]

PART 13—PROHIBITED TRADE PRACTICES

Sunrise Fashions, Inc., and Hyman and Richard Singer

Subpart—Misbranding or mislabeling: § 13.1185 *Composition*: 13.1185-90 Wool Products Labeling Act; § 13.1212 *Formal regulatory and statutory requirements*: 13.1212-90 Wool Products Labeling Act. Subpart—Neglecting, unfairly or deceptively, to make material disclosure: § 13.1845 *Composition*: 13.1845-80 Wool Products Labeling Act; § 13.1852 *Formal regulatory and statutory requirements*: 13.1852-80 Wool Products Labeling Act.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; sec. 2-5, 54 Stat. 1128-1130; 15 U.S.C. 45, 68) [Cease and desist order, Sunrise Fashions, Inc., et al., New York, N.Y., Docket C-1191, Apr. 11, 1967]

Consent order requiring a New York City manufacturer of woolen garments to cease misbranding its wool products.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows:

It is ordered, That respondents Sunrise Fashions, Inc., a corporation, and its officers, and Hyman Singer and Richard Singer, individually and as officers of said corporation, and respondents' representatives, agents, and employees, directly or through any corporate or other device, in connection with the introduction or manufacture for introduction, into commerce, or the offering for sale, sale, transportation, distribution, delivery for shipment or shipment, in commerce, of wool products, as "commerce" and "wool product" are defined in the Wool Products Labeling Act of 1939, do forthwith cease and desist from misbranding such products by:

1. Falsely and deceptively stamping, tagging, labeling, or otherwise identifying such products as to the character or amount of the constituent fibers contained therein.

2. Failing to securely affix to, or place on, each such product a stamp, tag, label, or other means of identification showing in a clear and conspicuous manner each element of information required to be disclosed by section 4(a) (2) of the Wool Products Labeling Act of 1939.

It is further ordered, That the respondents herein shall, within sixty (60) days after service upon them of this order, file with the Commission a report in writing setting forth in detail the manner and form in which they have complied with this order.

Issued: April 11, 1967.

By the Commission.

[SEAL] JOSEPH W. SHEA,
Secretary.

[F.R. Doc. 67-4962; Filed, May 3, 1967;
8:45 a.m.]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

[Airspace Docket No. 67-CE-2]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, CONTROLLED AIRSPACE, AND REPORTING POINTS

Designation of Transition Area

On February 21, 1967, a notice of proposed rule making was published in the FEDERAL REGISTER (32 F.R. 3100) stating that the Federal Aviation Administration proposed to designate controlled airspace in the Juneau, Wis., terminal area.

Interested persons were afforded an opportunity to participate in the rule making through submission of comments. The two comments received were favorable.

The Dodge County Airport coordinates recited in the transition area designation in the notice of proposed rule making have been changed slightly in this final rule. Since these changes are minor in nature and impose no additional burden on any person, they are being incorporated in the rule without notice and public procedure.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0001 e.s.t., June 22, 1967, as hereinafter set forth.

In § 71.181 (32 F.R. 2148), the following transition area is added:

JUNEAU, WIS.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Dodge County Airport (latitude 43°25'35" N., longitude 88°42'00" W.) and within 2 miles each side of the 195° bearing from Dodge County Airport, extending from the 5-mile radius area to 3 miles south of the airport.

(Sec. 307(a), Federal Aviation Act of 1958; 49 U.S.C. 1348)

Issued in Kansas City, Mo., on April 18, 1967.

DANIEL E. BARROW,
Acting Director, Central Region.

[F.R. Doc. 67-4979; Filed, May 3, 1967; 8:47 a.m.]

Title 19—CUSTOMS DUTIES

Chapter I—Bureau of Customs, Department of the Treasury

[T.D. 67-115]

PART 13—EXAMINATION, MEASUREMENT, AND TESTING OF CERTAIN PRODUCTS

Importation of Petroleum Products in Bulk

In a notice of proposed amendment to § 13.10 of the Customs Regulations (19 CFR 13.10) relating to the importation of petroleum products in bulk, as published in the *FEDERAL REGISTER* on March 13, 1965 (30 F.R. 3385), mention was made of a report of the Comptroller General of the United States concerning customs control over unloadings of bulk petroleum from importing vessels and the determination of the quantities thereof.

Among other things, the report recommended the inclusion in the Customs Regulations of a requirement that, as a condition for the acceptance by customs of reports by licensed public gaugers as to the quantities of imported petroleum gauged by them, public gaugers be required to adhere to standards similar to those prescribed by the Customs Service for its own inspectors when gauging bulk petroleum imported by vessel. The Bureau concurs in this recommendation. It also believes that in such cases the public gaugers should be required to post performance bonds and § 13.10 of the Customs Regulations is being amended to so provide.

After consideration of all representations received in response to the notice, the Bureau has concluded that under certain conditions the sealing of all

valves on the pipelines from the importing vessels to receiving shore tanks or continuous physical customs supervision over the discharge of petroleum or petroleum products, as set forth in the proposed amendment, would result in needless expense and impair operating efficiency which should be avoided, if possible. Moreover, the location and size of importers' facilities at any given port affect the extent of needed customs supervision and control over the discharge of the merchandise and its gauging. The Bureau has decided that these determinations can best be made locally pursuant to guidelines prescribed by the Bureau from time to time.

The proposed changes in § 13.10 of the Customs Regulations have been revised to conform with the above views.

The Customs Regulations are accordingly amended as follows:

1. The centerhead preceding § 13.10 is amended to read: "Petroleum and Petroleum Products."

2. The heading of § 13.10 and paragraph (a) are amended to read:

§ 13.10 Importation of petroleum and petroleum products in bulk.

(a) (1) When petroleum or petroleum products subject to duty at a specific rate per gallon are imported in bulk in tank vessels and are to be transferred into shore storage tanks, both the plans of each shore tank showing all outlets and inlets and the gauge table for each tank showing its capacity in U.S. gallons per inch or fraction of an inch of height shall be certified as correct by the proprietor of the tank. One set of these plans and gauge tables so certified shall be kept on file at the plant of the oil company and shall be available at all times to customs officers. Another certified set of the shore tank plans and gauge tables shall be filed in the customhouse for use in verifying the customs officers' reports. The district director of customs may require such additional sets of shore tank plans, including subsidiary pipeline plans, and gauge tables as he may deem necessary. The inlet and outlet valves of each tank shall have tags of a permanent type affixed thereto by the proprietor or lessee indicating the use of the valves. Whenever practicable the district director of customs may require the measurements and calibrations as shown on the gauge tables to be verified by a customs officer.

(2) Each district director of customs shall establish for his district controls and checks on the unloading and shore tank gauging of petroleum and petroleum products imported by vessel. Depending on local conditions, the district director of customs may employ any of the following methods of control of imported petroleum or petroleum products.

(i) Complete and continuous supervision by a customs officer when other methods are not considered adequate, or when the importer requests continuous supervision.

(ii) Subject to such checks as may be deemed necessary, the district director of customs may accept the reports of quantities of imported petroleum and petroleum products made by licensed public

gaugers whose standards and procedures of gauging have been approved by the Bureau as corresponding to those required of customs gaugers. Applications for such approval shall be made to the Bureau by the licensed public gaugers through the local district directors of customs.

(iii) Use of positive displacement meters at installations where provided by the importer.

(iv) Use of turbine-type meters at installations where provided by the importer.

(v) Sealing of all valves when practical.

(vi) Taking of vessel ullages before and after the discharge.

(3) A licensed public gauger (firm or individual) whose standards and procedures of gauging have been approved by the Bureau shall, as a condition for the acceptance for customs purposes of his reports of gauging, be required to file a bond with the district director of customs to insure that his gauging is in conformance with these approved standards and procedures, and with such general or specific procedures as may be required by the district director of customs for each of the discharging facilities in his district. The form of the required bond will be available from the district director of customs upon application.

(4) The district director of customs is authorized to approve, for each such licensed public gauger in his district, general or specific procedures to be followed by the public gauger at each of the discharging facilities in the district.

3. Paragraphs (b), (c), (d), and (e) are amended by inserting the words "petroleum or" before the words "a petroleum product" or "petroleum products" whenever they appear in those paragraphs.

(80 Stat. 379, R.S. 251, sec. 624, 46 Stat. 759; 5 U.S.C. 301, 19 U.S.C. 66, 1624)

This amendment shall become effective 30 days after its publication in the *FEDERAL REGISTER*.

[SEAL] **LESTER D. JOHNSON,**
Commissioner of Customs.

Approved: April 27, 1967.

TRUE DAVIS,
Assistant Secretary
of the Treasury.

[F.R. Doc. 67-4986; Filed, May 3, 1967; 8:47 a.m.]

Title 21—FOOD AND DRUGS

Chapter I—Food and Drug Administration, Department of Health, Education, and Welfare

SUBCHAPTER A—GENERAL

PART 2—ADMINISTRATIVE FUNCTIONS, PRACTICES, AND PROCEDURES

Fair Packaging and Labeling Act

Section 6 of the Fair Packaging and Labeling Act (Public Law 89-755; 80 Stat.

1299, 1300) provides that regulations promulgated by the Secretary of Health, Education, and Welfare under section 4 or 5 of that act shall follow the procedure and shall be subject to judicial review pursuant to the provisions of section 701 (e), (f), and (g) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 371 (e), (f), (g)). To reflect this provision in the appropriate procedural regulations in Chapter I of Title 21, Code of Federal Regulations, Part 2 is amended in the following respects, pursuant to the authority vested in the Secretary by the Federal Food, Drug, and Cosmetic Act (sec. 701(a), 52 Stat. 1055; 21 U.S.C. 371 (a)) and delegated by him to the Commissioner (21 CFR 2.120), and pursuant to the provisions of 5 U.S.C. 552 (Public Law 89-554; 80 Stat. 383):

§ 2.48 [Amended]

1. Section 2.48 *Purpose of holding public hearings* is amended by changing the portion in the first sentence that reads "and section 3(a)(2)" to read "sections 4 and 5 of the Fair Packaging and Labeling Act, and section 3(a)(2)".

§ 2.52 [Amended]

2. Section 2.52 *Definitions* is amended by changing in paragraph (1) the portion that reads "and section 3(a)(2)" to read "and sections 4 and 5 of the Fair Packaging and Labeling Act, and section 3(a)(2)".

§ 2.65 [Amended]

3. Section 2.65 *Procedure for filing petitions* is amended by changing in the first sentence of the form in paragraph (b) the portion that reads "or with section 3(a)(2)" to read "or with section 5 of the Fair Packaging and Labeling Act or section 3(a)(2)".

§ 2.66 [Amended]

4. Section 2.66 *Proposals and petitions* is amended by changing the portion of paragraph (a) that reads "and section 3(a)(2)" to read "and sections 4 and 5 of the Fair Packaging and Labeling Act, or section 3(a)(2)".

§ 2.68 [Amended]

5. Section 2.68 *Hearings under section 701(e) of the act* is amended by changing the portion of paragraph (a) that reads "and section 3(a)(2)" to read "and sections 4 and 5 of the Fair Packaging and Labeling Act, and section 3(a)(2)".

6. Section 2.120(a) is amended to read as follows:

§ 2.120 Direct delegations from the Secretary.

(a) The Secretary has delegated to the Commissioner (25 F.R. 8625) all the functions vested by Congress in the Secretary and the Department under the Federal Food, Drug, and Cosmetic Act, the Fair Packaging and Labeling Act, the Federal Caustic Poison Act, the Federal Hazardous Substances Act, the Import Milk Act, the Filled Milk Act, and the Tea Importation Act.

7. Section 2.121(b)(2)(i) is amended to read as follows:

§ 2.121 Redelegations of authority from the Commissioner to other officers of the Administration.

- (b) * * *
- (2) * * *

(i) Have been designated by the Commissioner of Food and Drugs to conduct examinations, inspections, and investigations; to collect and obtain samples; to have access to and to copy and verify records; and to supervise compliance operations, for the enforcement of the Federal Food, Drug, and Cosmetic Act, the Fair Packaging and Labeling Act, the Federal Caustic Poison Act, the Federal Hazardous Substances Act, the Import Milk Act, the Filled Milk Act, and the Tea Importation Act.

Effective date. This order shall be effective upon publication in the FEDERAL REGISTER.

(Sec. 701(a), 52 Stat. 1055; 21 U.S.C. 371(a))

Dated: April 26, 1967.

JAMES L. GODDARD,
Commissioner of Food and Drugs.

[F.R. Doc. 67-4999; Filed, May 3, 1967;
8:49 a.m.]

SUBCHAPTER C—DRUGS

PART 141c—CHLORTETRACYCLINE (OR TETRACYCLINE) AND CHLORTETRACYCLINE- (OR TETRACYCLINE-) CONTAINING DRUGS; TESTS AND METHODS OF ASSAY

PART 146c—CERTIFICATION OF CHLORTETRACYCLINE (OR TETRACYCLINE) AND CHLORTETRACYCLINE- (OR TETRACYCLINE-) CONTAINING DRUGS

Demethylchlortetracycline Hydrochloride-Nystatin Tablets

Under the authority vested in the Secretary of Health, Education, and Welfare by the Federal Food, Drug, and Cosmetic Act (sec. 507, 59 Stat. 463, as amended; 21 U.S.C. 357), and delegated by him to the Commissioner of Food and Drugs (21 CFR 2.120), Parts 141c and 146c of the antibiotic drug regulations are amended to provide for tests and methods of assay and certification of demethylchlortetracycline hydrochloride-nystatin tablets, as follows:

The following new section is added to Part 141c:

§ 141c.271 Demethylchlortetracycline hydrochloride-nystatin tablets.

(a) *Potency*—(1) *Demethylchlortetracycline hydrochloride content.* Proceed as directed in § 141c.266(a). Its content of demethylchlortetracycline hydrochloride is satisfactory if it is not less than 90 percent and not more than 120 percent of the number of milligrams thereof that it is represented to contain.

(2) *Nystatin content.* Proceed as directed in § 148k.7(b)(1) of this chapter. Its content of nystatin is satisfactory if it is not less than 90 percent and not more

than 140 percent of the number of units thereof that it is represented to contain.

(b) *Moisture.* Proceed as directed in § 141a.5(a) of this chapter.

(c) *Disintegration time.* Proceed as directed in § 141a.9(c) of this chapter.

2. The following new section is added to Part 146c:

§ 146c.271 Demethylchlortetracycline hydrochloride-nystatin tablets.

Demethylchlortetracycline hydrochloride-nystatin tablets are tablets that conform to all the requirements and are subject to all procedures prescribed by § 146c.259 for demethylchlortetracycline hydrochloride-nystatin capsules, except that:

(a) Each tablet contains 300 milligrams of demethylchlortetracycline hydrochloride and 500,000 units of nystatin.

(b) The moisture content is not more than 4 percent.

(c) It shall be labeled in accordance with the requirements of § 148.3 of this chapter. Its expiration date is 12 months.

(d) In addition to the requirements prescribed by § 146c.259, demethylchlortetracycline hydrochloride-nystatin tablets shall disintegrate within 1 hour. A person who requests certification shall therefore also submit, for disintegration time studies, results of this test by him and a sample of six tablets.

(e) The fee for the tablets submitted for disintegration time shall be \$3.

This order provides for the certification of an additional dosage form of an antibiotic drug which has been determined to be safe and efficacious. Since it is in the public interest not to delay in so providing, notice and public procedure and delayed effective date are not prerequisites to this promulgation.

Effective date. This order shall be effective upon publication in the FEDERAL REGISTER.

(Sec. 507, 59 Stat. 463, as amended; 21 U.S.C. 357)

Dated: April 26, 1967.

J. K. KIRK,
Associate Commissioner
for Compliance.

[F.R. Doc. 67-5000; Filed, May 3, 1967;
8:49 a.m.]

SUBCHAPTER D—HAZARDOUS SUBSTANCES

PART 191—HAZARDOUS SUBSTANCES; DEFINITIONS AND PROCEDURAL AND INTERPRETATIVE REGULATIONS

Hollow Plastic Toys Containing Mineral Oil; Exemption From Certain Labeling Requirements

The Commissioner of Food and Drugs has received a request, submitted pursuant to section 3(c) of the Federal Hazardous Substances Act and § 191.62 of the regulations thereunder, to exempt from the requirements of the act hollow plastic toys containing mineral oil.

Based on the information submitted in the request, and other relevant information, the Commissioner has concluded

that hollow plastic toys containing mineral oil meeting the conditions set forth in this order do not present a reasonably foreseeable hazard of chemical pneumonitis and, therefore, do not require for the adequate protection of the public health and safety the special labeling specified in § 191.7(b)(3)(ii) for certain petroleum distillates.

Accordingly, pursuant to the provisions of that act (sec. 3(c), 74 Stat. 374; 15 U.S.C. 1262) and under the authority delegated to the Commissioner by the Secretary of Health, Education, and Welfare (21 CFR 2.120), § 191.63(a) is amended by adding thereto a new subparagraph, as follows:

§ 191.63 Exemption for small packages, minor hazards, and special circumstances.

(a) * * *

(32) Hollow plastic toys containing mineral oil are exempt from the labeling specified in § 191.7(b)(3)(ii), under the following conditions:

(i) The article contains no other ingredient that would cause it to possess the aspiration hazard specified in § 191.7(b)(3)(ii).

(ii) The article contains not more than 6 fluid ounces of mineral oil.

(iii) The mineral oil has a viscosity of at least 70 S.U.S. at 100° F.

(iv) The mineral oil meets the specifications in the N.F. for light liquid petroleum.

(v) The container bears the statement "CAUTION—Contains light liquid petroleum N.F. Discard if broken or leak develops."

Notice and public procedure and delayed effective date are unnecessary prerequisites to the promulgation of this order, and I so find, since the Federal Hazardous Substances Act contemplates such modification of labeling requirements under certain conditions.

Effective date. This order shall become effective upon publication in the FEDERAL REGISTER.

(Sec. 3(c), 74 Stat. 374; 15 U.S.C. 1262)

Dated: April 26, 1967.

J. K. KIRK,
Associate Commissioner
for Compliance.

[F.R. Doc. 67-5001; Filed, May 3, 1967;
8:49 a.m.]

Title 29—LABOR

Chapter IV—Office of Labor-Management and Welfare-Pension Reports, Department of Labor

SUBCHAPTER B—WELFARE-PENSION REPORTS

PART 465—EXEMPTION FROM BONDING REQUIREMENTS

Subpart B—Exemptions

SAVINGS AND LOAN ASSOCIATIONS

Pursuant to section 13(e) of the Welfare and Pension Plans Disclosure Act

(76 Stat. 39, 29 U.S.C. 308(d)) the U.S. Savings & Loan League submitted a petition on behalf of certain savings and loan associations which maintain welfare and pension benefit plans for their own employees, requesting that they be exempted from the bonding requirements of section 13 of the Welfare and Pension Plans Disclosure Act (hereinafter referred to as the "Act") with regard to plans administered by such institutions for the benefit of their own employees. The petition was submitted and considered in accordance with 29 CFR Part 465 and section 13(e) of the Act which permits the Secretary to grant an exemption from the bonding requirements of section 13 for covered plans when adequate evidence is offered of the financial responsibility of such plans or that other bonding arrangements provide adequate protection of beneficiaries and participants of a plan.

In support of the petition it was asserted that rigorous standards of financial responsibility are required of savings and loan associations subject to applicable Federal law, and that the continual maintenance of these standards is assured by the nature of the supervision undertaken by the Federal Home Loan Bank Board. The petition also asserted that such savings and loan associations maintain adequate fidelity bonding coverage subject to examination and review by Federal supervisory authorities. In addition, it is asserted that the factors which form the basis for the Department of Labor's ruling exempting banking institutions from the scope of the bonding regulations, with respect to covered plans for the benefit of their own employees (29 CFR 465.19 and 465.20) form an equally sound basis for granting the petition of the United States Savings and Loan League.

On February 28, 1967, notice was published in the FEDERAL REGISTER (32 F.R. 3363) inviting interested persons to submit objections with respect to the petition within 15 days from the date of publication of the proposed exemption in the FEDERAL REGISTER. The period for filing objections having elapsed and no objections having been received, and upon consideration of the petition filed, I find that adequate evidence has been presented as to the financial responsibility of plans administered by savings and loan associations subject to Federal law and the supervision of Federal agencies.

Therefore pursuant to section 13(e) of the Welfare and Pension Plans Disclosure Act (76 Stat. 39, 29 U.S.C. 308(d)), Secretary's Order No. 24-63 (28 F.R. 9172), Secretary's Order No. 25-63 (28 F.R. 9173), Title 29 CFR, Chapter IV, Part 465 is hereby amended by adding new §§ 465.21 and 465.22 to Subpart B, to read as follows:

SAVINGS AND LOAN ASSOCIATIONS SUBJECT TO FEDERAL REGULATION

§ 465.21 Exemption.

An exemption from the bonding requirements of subsections 13(a) and (b) of the Welfare and Pension Plans Disclosure Act is granted whereby savings

and loan associations (including building and loan associations, cooperative banks and homestead associations) specified in § 465.22 are not required to comply with subsections 13(a) and (b) of the Act, with respect to welfare and pension benefit plans covered by the Act for the benefit of their own employees, where such a savings and loan association is the administrator of such plans.

§ 465.22 Conditions of exemption.

This exemption applies only to those savings and loan associations (including building and loan associations, cooperative banks and homestead associations) subject to regulation and examination by the Federal Home Loan Bank Board.

This amendment shall take effect on publication in the FEDERAL REGISTER.

Signed at Washington, D.C., on this 27th day of April 1967.

THOMAS R. DONAHUE,
Assistant Secretary of Labor
for Labor-Management Relations.

[F.R. Doc. 67-4967; Filed, May 3, 1967;
8:46 a.m.]

Title 38—PENSIONS, BONUSES, AND VETERANS' RELIEF

Chapter I—Veterans Administration

PART 3—ADJUDICATION

Subpart A—Pension, Compensation, and Dependency and Indemnity Compensation

COAST GUARD; DEPARTMENT OF TRANSPORTATION

1. In § 3.1(g), subparagraph (4) is amended to read as follows:

§ 3.1 Definitions.

(g) "Secretary concerned" means:

(4) The Secretary of Transportation, with respect to matters concerning the Coast Guard (Public Law 89-670);

2. In § 3.7, paragraph (h) is amended to read as follows:

§ 3.7 Persons included.

(h) *Coast Guard.* Active service in Coast Guard on or after January 29, 1915, while under jurisdiction of the Treasury Department, Navy Department, or the Department of Transportation. (See § 3.6 (c) and (d) as to temporary members of the Coast Guard Reserves.)

3. In § 3.802, paragraph (a) is amended to read as follows:

§ 3.802 Medal of Honor.

(a) The Secretary of the Department of the Army, the Department of the Navy, the Department of the Air Force, or the Department of Transportation

will determine the eligibility of applicants to be entered on the Medal of Honor Roll and will deliver to the Administrator of the Veterans Administration a certified copy of each certificate issued in which the right of the person named in the certificate to the special pension is set forth. The special pension will be authorized on the basis of such certification. (38 U.S.C. 560, 561)

(72 Stat. 1114; 38 U.S.C. 210)

These VA Regulations are effective April 1, 1967.

Approved: April 26, 1967.

By direction of the Administrator.

[SEAL] CYRIL F. BRICKFIELD,
Deputy Administrator.

[F.R. Doc. 67-4981; Filed, May 3, 1967;
8:47 a.m.]

PART 17—MEDICAL

Miscellaneous Amendments

1. In § 17.30, paragraphs (r) and (s) are added to read as follows:

§ 17.30 Definitions.

(r) *Research center.* The term "research center" means an institution (or part of an institution) the primary function of which is research, training of specialists and demonstrations and which, in connection therewith, provides specialized, high quality diagnostic and treatment services for inpatients and outpatients.

(s) *Specialized medical resources.* The term "specialized medical resources" means medical resources (whether equipment, space, or personnel) which, because of cost, limited availability, or unusual nature, are either unique in the medical community or are subject to maximum utilization only through mutual use.

2. In § 17.46, a new paragraph (d) is added and the former paragraph (d) is amended and redesignated paragraph (e) so that the added and amended material reads as follows:

§ 17.46 Persons entitled to hospital or domiciliary care.

(d) Hospital care when incidental to, and to the extent necessary for, the use of a specialized Veterans Administration medical resource pursuant to a sharing agreement entered into under § 17.210, may be authorized for any person designated by the other party to the agreement as a patient to be benefited under the agreement.

(e) Charges will be made for services rendered persons comprehended under paragraph (b) of this section at rates approved by the Bureau of the Budget. The Chief Medical Director will prescribe rates to be charged for services rendered persons entitled under paragraph (c) of this section. Charges will be made for services rendered persons under sharing

agreements as provided for in such agreements.

3. In § 17.48, paragraph (h) is added to read as follows:

§ 17.48 Considerations applicable in determining eligibility for hospital or domiciliary care.

(h) Within the limits of Veterans Administration facilities, any veteran who is receiving hospital care in a hospital under the direct and exclusive jurisdiction of the Veterans Administration, or in a Federal hospital under agreement, may be furnished medical services to correct or treat any non-service-connected disability in addition to treatment for the disability for which he is hospitalized; *Provided*, The veteran is willing and furnishing the services would (1) be in the veteran's interest, (2) not prolong his hospitalization, and (3) not interfere with the furnishing of medical services under other provisions of Part 17 to other veterans.

4. In § 17.49 (a), subparagraph (3) (vii) is added to read as follows:

§ 17.49 Veterans Administration policy on priorities for hospital and domiciliary care.

(a) *Priorities for hospital care.* . . .
(3) *Priority groups.* . . .

(vii) Group VII includes persons eligible under § 17.46 (b), (c), or (d) (active duty or retired military personnel, beneficiaries from other Federal agencies, veterans of nations allied with the United States in World War I or II, persons treated under sharing agreements, etc.).

5. In § 17.50, paragraph (k) is added to read as follows:

§ 17.50 Utilization of facilities other than those under direct and exclusive jurisdiction of the Veterans Administration.

(k) Hospital care in State or local, public or private, facilities may be authorized when incidental to, and to the extent necessary for, the use of a specialized medical resource pursuant to a sharing agreement entered into under § 17.210 for any veteran eligible for hospital care under other provisions of Part 17.

6. In § 17.52, the headnote is amended and paragraph (c) is added to read as follows:

§ 17.52 Medical and ancillary services on a contract or fee basis.

(c) Subject to such terms and conditions as the Chief Medical Director shall prescribe, Directors of Veterans Administration hospitals, domiciliarys, and outpatient clinics may enter into contracts with medical schools or clinics to provide scarce medical specialist services (including, but not limited to, services of radiologists, pathologists, psychiatrists, etc.) in facilities under the direct and exclusive jurisdiction of the Veterans Administration.

7. In § 17.60, paragraph (d) is added to read as follows:

§ 17.60 Outpatient treatment and examination.

(d) The use of a specialized medical resource or any medical service incidental to, and necessary for, its use under a sharing agreement entered into under § 17.210, may be authorized, if:

(1) In the case of a specialized medical resource and services made available by the other party to the sharing agreement, the patient is a veteran eligible under any other provision of this section, or

(2) In the case of a specialized medical resource and services available within the limits of Veterans Administration facilities, the patient is a person designated by the other party to the sharing agreement as a patient to be benefited under the agreement.

8. Section 17.62 is revised to read as follows:

§ 17.62 Charges for medical services.

Charges will be made for services provided to non-VA beneficiaries (including dental services, supplies, medicines, orthopedic and prosthetic appliances and for domiciliary care) as follows:

(a) If he is a person treated under the provisions of § 17.60 (a) (9), or a pensioner of a nation allied with the United States in World War I and World War II, charges will be made at rates prescribed by the Chief Medical Director, or

(b) If he is a beneficiary of another Federal agency, charges will be made at rates prescribed by the Bureau of the Budget, or

(c) If he is a person designated by the other party to an agreement for sharing medical resources as a patient to be benefited under the agreement, charges will be made as provided for in the agreement, or

(d) If he is a person who has received domiciliary care for which he was not eligible, charges will be made at rates prescribed by the Chief Medical Director.

9. Sections 17.210, 17.211, 17.212, and 17.220 are added to read as follows:

SHARING OF MEDICAL FACILITIES, EQUIPMENT, AND INFORMATION

§ 17.210 Sharing specialized medical resources.

Subject to such terms and conditions as the Chief Medical Director shall prescribe, Directors of Veterans Administration hospitals may enter into agreements for sharing medical resources with other hospitals, including State or local, public or private hospitals, medical schools or other medical installations having hospital facilities in a medical community with geographical limitations determined by the Chief Medical Director: *Provided*:

(a) The agreement will achieve one of the following purposes:

(1) It will secure the use of a specialized medical resource which otherwise might not be feasibly available by providing for the exchange of use of specialized medical resources when such an agreement will obviate the need for a

similar resource to be installed or provided at a facility operated by the Veterans Administration, or

(2) It will secure effective use of Veterans Administration specialized medical resources by providing for the mutual use, or exchange of use, of specialized medical resources in a facility operated by the Veterans Administration, which have been justified on the basis of veterans' care, but which are not utilized to their maximum effective capacity; and

(b) The agreement is determined to be in the best interest of the prevailing standards of the Veterans Administration Medical Program; and

(c) The agreement provides for reciprocal reimbursement based on a charge which covers the full cost of the use of specialized medical resources, incidental hospital care or other needed services, supplies used, and normal depreciation and amortization costs of equipment.

§ 17.211 Sharing medical information services.

(a) *Agreements for exchange of information.* Subject to such terms and conditions as the Chief Medical Director shall prescribe, Directors of Veterans Administration hospitals, may enter into agreements with medical schools, Federal, State or local, public or private hospitals, research centers, and individual members of the medical profession, under which medical information and techniques will be freely exchanged and the medical information services of all parties to the agreement will be available for use by any party to the agreement under conditions specified in the agreement.

(b) *Purpose of sharing agreements.* Agreements for the exchange of information shall be used to the maximum extent practicable to create at each Veterans Administration hospital which has entered into such an agreement, an environment of academic medicine which will help the hospital attract and retain highly trained and qualified members of the medical profession.

(c) *Use of electronic equipment.* Recent developments in electronic equipment shall be utilized under information sharing programs to provide a close educational, scientific, and professional link between Veterans Administration hospitals and major medical centers.

(d) *Furnishing information services on a fee basis.* The educational facilities and programs established at Veterans Administration hospitals and the electronic link to medical centers shall be made available for use by medical entities in the surrounding medical community which have not entered into sharing agreements with the Veterans Administration, in order to bring about utilization of all medical information in the surrounding medical community, particularly in remote areas, and to foster and encourage the widest possible cooperation and consultation among all members of the medical profession in the surrounding medical community.

(e) *Establishing fees for information services.* Subject to such terms and conditions as the Chief Medical Director shall prescribe, Directors of Veterans

Administration hospitals shall charge for information and educational facilities and services made available under paragraph (d) of this section. The fee may be on an annual or other periodic basis, at rates determined, after appropriate study, to be fair and equitable. The financial status of any user of such services shall be taken into consideration in establishing the amount of the fee to be paid.

§ 17.212 Reports.

The Chief Medical Director or his designee will prepare for the Administrator, for submission to the Congress, not more than 60 days after the end of each fiscal year, separate reports on the activities carried out under § 17.210 (Sharing Specialized Medical Resources) and § 17.211 (Sharing Medical Information Services). Each report shall include (a) an appraisal of the effectiveness of the programs authorized by such regulations and the degree of cooperation from other sources, financial and otherwise, and (b) recommendations for the improvement or more effective administration of such programs. (38 U.S.C. 5057, sec. 203, Public Law 89-785)

§ 17.220 Coordination of programs with Department of Health, Education, and Welfare.

Programs for sharing specialized medical resources or medical information services shall be coordinated to a maximum extent practicable, with programs carried out under title IX of the Public Health Service Act under the jurisdiction of the Department of Health, Education, and Welfare.

(72 Stat. 1114; 38 U.S.C. 210)

These VA regulations are effective the date of approval.

Approved: March 17, 1967.

By direction of the Administrator.

[SEAL] A. H. MONK,
Acting Deputy Administrator.

[F.R. Doc. 67-4082; Filed, May 3, 1967;
8:47 a.m.]

Title 42—PUBLIC HEALTH

Chapter I—Public Health Service, Department of Health, Education, and Welfare

PART 35—HOSPITAL AND STATION MANAGEMENT

Fees and Charges for Copying, Certification, Search of Records, and Related Services

On pages 578 and 579 of the FEDERAL REGISTER of January 18, 1967, there was published a notice of proposed rule making to issue a regulation governing fees and charges for copying, certification, search of records, and related services. Interested persons were given 30 days in which to submit written data, views, or arguments regarding the proposed regulations.

No objection has been received and the proposed regulation is hereby adopted without change and is set forth below.

Effective date. This regulation shall be effective as of June 1, 1967.

Dated: April 10, 1967.

[SEAL] LEO J. GEHRIG,
Acting Surgeon General.

Approved: April 22, 1967.

WILBUR J. COHEN,
Acting Secretary.

Part 35 is amended by the addition of a new § 35.17, to read as follows:

§ 35.17 Fees and charges for copying, certification, search of records and related services.

A prescribed fee, in accordance with the schedule in paragraph (c) of this section, shall be collected for each of the listed services.

(a) *Application for services.* Any person requesting (1) a copy of a clinical record, clinical abstract, or other document containing clinical information; or (2) a certification of a clinical record or document; or (3) a search of clinical records, shall make written application therefor to the Public Health Service facility having custody of the subject matter involved. Such application shall state specifically the particular record or document requested, and the purpose for which such copy or document is desired to be used. The application shall be accompanied by a deposit in an amount equal to the prescribed charge for the service rendered. Where it is not known if a clinical record or other document is in existence, the application shall be accompanied by a minimum deposit of \$2.50.

(b) *Authorization for disclosure.* The furnishing of copies of PHS records containing confidential clinical information must comply with the requirements of Part I, Title 42, Code of Federal Regulations, governing authorization for the disclosure of such information.

(c) Schedule of fees.

- (1) Photocopy reproduction of a clinical record or other document (through use of facility equipment):
 - (a) Processing (searching, preparation of record and use of equipment), first page..... \$3.25
 - (b) Each additional page..... .25
- (2) Certification, per document..... .25
- (3) Unsuccessful searching, per hour (minimum charge 1 hour)..... 2.50
- (4) Clinical abstracts, per request... 3.00
- (5) Arranging commercial duplication of a clinical record, per request..... * 5.50
- (6) If the requested material is to be transmitted by registered mail, airmail, or special delivery mail, the postal fees therefor shall be added to the other fees provided above, unless the applicant has included proper postage or stamped return envelopes for this purpose.

*The private concern which duplicates records for an applicant will make a separate charge therefor and will bill the applicant directly.

(d) *Waiver of fee.* The prescribed fee may be waived, in the discretion of the medical officer in charge, under the following circumstances:

(1) When the service or document is requested by another agency of the Federal Government for use in carrying out official Government business.

(2) When a clinical record is requested for the purpose of providing continued medical care to a Service beneficiary by a non-Service physician, clinic, or hospital, in which case the record will be forwarded only to the physician, clinic, or hospital concerned.

(3) When the service or document is requested by an attorney in the prosecution of a Service beneficiary's personal injury claim against a third person, involving the concurrent assertion of a Government medical care claim under 42 U.S.C. 2651-2653. In such case, the service or document requested will be furnished only upon compliance with all additional requirements for the release of records in third party recovery cases, including the proper execution of form PHS-4686, Agreement to Assign Claim Upon Request.

(4) When the service or document is requested by, and furnished to, a Member of Congress for official use.

(5) When the service or document is requested by, and furnished to, a court in lieu of the personal court appearance of an employee of the Public Health Service.

(6) When the service or document is required to be furnished free in accordance with a Federal statute or an Executive order.

(7) When the furnishing of the service or document requested without charge would be an appropriate courtesy to a foreign country or international organization.

(Sec. 501, 65 Stat. 290; 31 U.S.C. 483(a); sec. 215, 58 Stat. 690, as amended; 42 U.S.C. 216)
[F.R. Doc. 67-4983; Filed, May 3, 1967; 8:47 a.m.]

Title 49—TRANSPORTATION

Chapter I—Interstate Commerce Commission and Department of Transportation

SUBCHAPTER B—CARRIERS BY MOTOR VEHICLE

[Released Rates Order MC-505]

PART 287—FREIGHT RATE TARIFFS, SCHEDULES, AND CLASSIFICATIONS

Released Rates of Motor Common Carriers of Household Goods

At a general session of the Interstate Commerce Commission, held at its office in Washington, D.C., on the 12th day of April 1967.

Upon consideration of a petition filed March 2, 1967, by the Household Goods Carriers' Bureau, to which no reply has been filed, seeking amendment of this order (entered June 7, 1966, 102 M.C.C. 277, published in 31 F.R. 8919), to provide an increased valuation charge on

shipments of household goods destined to points in Mexico;

It appearing, that special conditions exist on such shipments because carriers operating in the United States, under authority of the Commission, cannot operate in Mexico, thus requiring unloading of the goods at the border, which increases the cost of insuring such shipments;

And it further appearing, that the special circumstances described above may terminate or change in the foreseeable future, and the exact cost of insuring such shipments will be more precisely determinable after a reasonable period during which the carriers will be able to obtain more precise data concerning actual extent of loss and damage on such shipments:

It is ordered, That § 287.201 (49 CFR 287.201) be, and it is hereby, amended as follows:

§ 287.201 Released rates on household goods.

(a) *Establishment authorized; rate bases* * * *

Released values and liability limitations	Transportation rate basis	Storage in transit rate basis
* * *	* * *	* * *
	Base transportation rate plus a valuation charge of 50 cents for each \$100, or fraction thereof of the released value of the entire shipment. On shipments destined to a point in Mexico and picked up prior to Dec. 31, 1968, the valuation charge will be \$1.00 for each \$100, or fraction thereof of the released value of the entire shipment.	

It is further ordered, That this amendment become effective June 1, 1967.

(Sec. 204, 49 Stat. 546, as amended, 49 U.S.C. 304, interpret or apply sec. 219, as amended 220, as amended; 49 U.S.C. 319, 20)

By the Commission.

[SEAL]

H. NEIL GARSON,
Secretary.

[F.R. Doc. 67-5007; Filed, May 3, 1967; 8:49 a.m.]

Proposed Rule Making

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 42]

EGGS AND EGG PRODUCTS

Proposal To List Silicon Dioxide as Optional Anticaking Ingredient in Dried Eggs and Dried Yolks

Notice is given that W. R. Grace & Co., Davison Chemical Division, 101 North Charles Street, Baltimore, Md. 21203, has filed a petition proposing that the standards of identity for dried eggs (21 CFR 42.30) and dried egg yolks (21 CFR 42.60) be amended by listing silicon dioxide as an optional anticaking ingredient at a maximum level of 1 percent by weight and with labeling requirements as hereinafter indicated. Grounds set forth in the petition indicate that silicon dioxide at the proposed level is functionally effective as an anticaking agent in dried eggs and dried yolks.

Accordingly, it is proposed that § 42.30 (a) and (d) (1) and § 42.60 (a) and (d) (1) be amended to read as follows:

§ 42.30 Dried eggs, dried whole eggs; identity; label statement of optional ingredients.

(a) Dried eggs, dried whole eggs are prepared by drying liquid eggs that conform to § 42.10, with such precautions that the finished food is free of viable *Salmonella* micro-organisms. They may be powdered. Before drying, the glucose content of the liquid eggs may be reduced by one of the optional procedures set forth in paragraph (b) of this section. Either silicon dioxide complying with the provisions of § 121.1058 of this chapter or sodium silicoaluminate may be added as an optional anticaking ingredient, but the amount of silicon dioxide used is not more than 1 percent and the amount of sodium silicoaluminate used is less than 2 percent by weight of the finished food. The moisture content of the finished food, if an optional anticaking ingredient is used, does not exceed 5 percent by weight; however, if an optional anticaking ingredient is not used, the moisture content may exceed 5 percent, but it does not exceed 8 percent. The moisture content is determined by the method prescribed in "Official Methods of Analysis of the Association of Official Agricultural Chemists," 10th edition, 1965, p. 257, sections 16.002 and 16.003, under "Total Solids."

(d) (1) When either of the optional anticaking ingredients specified in paragraph (a) of this section is used, the label shall bear the statement "Not more

than 1 percent silicon dioxide added as an anticaking agent" or "Less than 2 percent sodium silicoaluminate added as an anticaking agent," whichever is applicable.

§ 42.60 Dried egg yolks, dried yolks; identity; label statement of optional ingredients.

(a) Dried egg yolks, dried yolks is the food prepared by drying egg yolks that conform to § 42.40, with such precautions that the finished food is free of viable *salmonella* micro-organisms. Before drying, the glucose content of the liquid egg yolks may be reduced by one of the optional procedures set forth in paragraph (b) of this section. Either silicon dioxide complying with the provisions of § 121.1058 of this chapter or sodium silicoaluminate may be added as an optional anticaking ingredient, but the amount of silicon dioxide used is not more than 1 percent and the amount of sodium silicoaluminate used is less than 2 percent by weight of the finished food. The moisture content of the finished food, if an optional anticaking ingredient is used, does not exceed 3 percent by weight; however, if an optional anticaking ingredient is not used, the moisture content may exceed 3 percent but does not exceed 5 percent. The moisture content is determined by the method prescribed in "Official Methods of Analysis of the Association of Official Agricultural Chemists," 10th edition, 1965, p. 257, sections 16.002 and 16.003, under "Total Solids."

(d) (1) When either of the optional anticaking ingredients specified in paragraph (a) of this section is used, the label shall bear the statement "Not more than 1 percent silicon dioxide added as an anticaking agent" or "Less than 2 percent sodium silicoaluminate added as an anticaking agent," whichever is applicable.

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (secs. 401, 701, 52 Stat. 1046, 1055, as amended 70 Stat. 919, 72 Stat. 948; 21 U.S.C. 341, 371) and in accordance with the authority delegated to the Commissioner of Food and Drugs by the Secretary of Health, Education, and Welfare (21 CFR 2.120), all interested persons are invited to submit their views in writing, preferably in quintuplicate, regarding this proposal. Such views and comments should be addressed to the Hearing Clerk, Department of Health, Education, and Welfare, Room 5440, 330 Independence Avenue SW., Washington, D.C. 20201, within 60 days following the date of publication of this notice in the FEDERAL REGISTER,

and may be accompanied by a memorandum or brief in support thereof.

Dated: April 24, 1967.

J. K. KIRK,
Associate Commissioner
for Compliance.

[F.R. Doc. 67-5005; Filed, May 3, 1967;
8:49 a.m.]

[21 CFR Part 121]

FOOD ADDITIVES SILICON DIOXIDE, CALCIUM SILICATE

Proposal Regarding Use in Certain Foods

Section 121.1058 excludes use of silicon dioxide as an anticaking agent in infant foods, except as an incidental additive resulting from salt or salt substitutes used as components of such foods. Section 121.1135 excludes use of calcium silicate as an anticaking agent in infant foods and foods for special dietary uses, with the same exception.

Excluding use of silicon dioxide and calcium silicate in these important food items was believed necessary to preclude a potential adverse effect on their nutritional value; however, reconsideration of available data indicates that use of these additives as anticaking agents in nutritionally important foods, consistent with good manufacturing practice and at levels not in excess of 2 percent by weight of the food, would have no significant effect on the total dietary of individuals ingesting these special foods.

Therefore, pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(d), 72 Stat. 1787; 21 U.S.C. 348(d)) and under the authority delegated to him by the Secretary of Health, Education, and Welfare (21 CFR 2.120), the Commissioner of Food and Drugs proposes that Part 121 be amended:

§ 121.1058 [Amended]

1. In § 121.1058(b) by deleting subparagraph (3).

2. By revising § 121.1135 to read as follows:

§ 121.1135 Calcium silicate.

Calcium silicate, including synthetic calcium silicate, may be safely used in food in accordance with the following prescribed conditions:

(a) It is used as an anticaking agent in food in an amount not in excess of that reasonably required to produce its intended effect.

(b) It will not exceed 2 percent by weight of the food, except that it may be present up to 5 percent by weight of baking powder.

Any interested person may, within 30 days from the date of publication of this notice in the FEDERAL REGISTER, file with

the Hearing Clerk, Department of Health, Education, and Welfare, Room 5440, 330 Independence Avenue SW., Washington, D.C. 20201, written comments, preferably in quintuplicate, on this proposal. Comments may be accompanied by a memorandum or brief in support thereof.

Dated: April 24, 1967.

J. K. Kirk,
Associate Commissioner
For Compliance.

[F.R. Doc. 67-5006; Filed, May 3, 1967;
8:49 a.m.]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 39]

[Docket No. 67-SO-50]

AIRWORTHINESS DIRECTIVES

•Piper PA-28 and PA-32 Series Aircraft

The Federal Aviation Administration is considering amending Part 39 of the Federal Aviation Regulations by adding an airworthiness directive applicable to Piper PA-28 and PA-32 series airplanes. There have been failures of the main landing gear torque links on Piper PA-28 and PA-32 series airplanes that could result in the wheel assembly falling out of the landing gear cylinder. Since this condition is likely to exist or develop in other airplanes of the same type design, the proposed airworthiness directive would require inspection of the main landing gear torque links and replacement if necessary on Piper PA-28 and PA-32 series airplanes.

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the docket number and be submitted in duplicate to the Federal Aviation Administration, Office of the Regional Counsel, Attention: Rules Docket, Post Office Box 20636, Atlanta, Ga. 30320. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered by the Administrator before taking action upon the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. This amendment is proposed under the authority of sections 313(a), 601, and 603 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, 1423).

In consideration of the foregoing, it is proposed to amend § 39.13 of the Federal Aviation Regulations by adding the following new airworthiness directive:

Piper. Applies to Piper PA-28 and PA-32 series airplanes equipped with main landing gear torque links which are drilled for lubricator fittings.

Compliance required within the next 25 hours' time in service after the effective date of this AD, unless already accomplished.

To preclude the possibility of failure of the main landing gear torque link, accomplish the following:

(a) Measure the distance from the edge of the bolt hole to the edge of the machined surface on the boss on the small (scissor) end of each of the main landing gear torque links. If this distance is 0.350 inches or less, the link must be replaced, either individually or in pairs, with Piper Part No. 65691-00. When replacing the link, install Piper Kit No. 787 123, which consists of a grease bolt, P/N 65788-00, a brake line clip, P/N 63332-05, a washer, P/N 62833-27, an AN310-C5 nut, P/N 404 122, and an AN381-2-8 cotter pin, P/N 424 080. One kit is required per landing gear.

(b) Inspect to determine the amount of contact on the face of the torque link stops. If the contact of the stops is along the inboard edge only, or outboard edge only, the face must be reworked to insure contact is maintained over the entire width of the bearing surface. This is required to preclude the possibility of side loads on the torque links.

NOTE: Service the landing gear assembly to assure correct fluid content, air pressure and piston exposure in accordance with the Piper PA-28 or PA-32 Service Manual, as appropriate.

(Piper Service Bulletin No. 248 dated Apr. 21, 1967, covers this same subject.)

Issued in East Point, Ga., on April 24, 1967.

JAMES G. ROGERS,
Director, Southern Region.

[F.R. Doc. 67-4974; Filed, May 3, 1967;
8:46 a.m.]

[14 CFR Part 71]

[Airspace Docket No. 67-CE-57]

CONTROL ZONE

Proposed Alteration

The Federal Aviation Administration is considering an amendment to Part 71 of the Federal Aviation Regulations which would alter the Minneapolis, Minn. (Flying Cloud Airport), control zone.

The Minneapolis, Minn. (Flying Cloud Airport), control zone is presently designated as follows:

That airspace within a 3-mile radius of Flying Cloud Airport (latitude 44°49'30" N., longitude 93°27'25" W.), and within 2 miles each side of the Flying Cloud VOR 292° radial extending from the 3-mile radius zone to 7 miles west of the VOR, from 0600 to 2200 hours, local time, daily.

Due to the present designation of the control zone, any change in the hours during which the control zone is effective requires rule making action which is often time consuming. This requirement will be eliminated by altering the control zone designation to permit its effective hours to be changed by NOTAM. In addition, the alteration contained herein will increase the control zone to the normal 5-mile radius. As a result, and having completed a comprehensive re-

view of the terminal airspace structural requirements at Flying Cloud Airport, Minneapolis, Minn., the Federal Aviation Administration proposes the following airspace action:

Redesignate the Minneapolis, Minn. (Flying Cloud Airport), control zone as that airspace within a 5-mile radius of Flying Cloud Airport (latitude 44°49'30" N., longitude 93°27'25" W.); and within 2 miles each side of the Flying Cloud VOR 292° radial, extending from the 5-mile radius zone to 7 miles west of the VOR. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airman's Information Manual.

During the time the proposed control zone is in effect, it will provide controlled airspace protection for aircraft executing prescribed arrival and departure procedures at Flying Cloud Airport during descent below 1,000 feet above the surface and during climb to 700 feet above the surface. The control zone will continue to be effective during the hours that the FAA control tower is in operation at Flying Cloud Airport, presently from 0600 to 2200 hours, local time, daily. The FAA will continue to provide weather observations and disseminate weather information during the times that the control zone is in effect. In the event the hours for the operation of the control tower change, the effective times of the control zone will change. When this occurs, notice will be given prior to any such change by a Notice to Airmen, and continuously published thereafter in the Airman's Information Manual.

Specific details of this proposal may be examined by contacting the Chief, Standards and Airspace Branch, Air Traffic Division, Federal Aviation Administration, 601 East 12th Street, Kansas City, Mo. 64106.

Interested persons may submit such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Director, Central Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Federal Building, 601 East 12th Street, Kansas City, Mo. 64106. All communications received within 45 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The public docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, Federal Build-

ing, 601 East 12th Street, Kansas City, Mo. 64106.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348).

Issued at Kansas City, Mo., on April 20, 1967.

DANIEL E. BARROW,
Acting Director, Central Region.

[F.R. Doc. 67-4975; Filed, May 3, 1967;
8:46 a.m.]

[14 CFR Part 71]

[Airspace Docket No. 67-CE-58]

CONTROL ZONE

Proposed Alteration

The Federal Aviation Administration is considering an amendment to Part 71 of the Federal Aviation Regulations which would alter the Milwaukee, Wis. (Timmerman Airport), control zone.

The Milwaukee, Wis., (Timmerman Airport), control zone is presently designated as follows:

That airspace within a 3-mile radius of Timmerman Airport (latitude 43°06'40" N., longitude 88°02'05" W.) and within 2 miles each side of the Timmerman VOR 337° radial, extending from the 3-mile radius zone to 7 miles northwest of the VOR; and within 2 miles each side of the Timmerman VOR 214° radial, extending from the 3-mile radius zone to 6 miles southwest of the VOR, effective from 0600 to 2200 hours, local time, daily.

Since designation of this part-time control zone, the instrument approach procedure for Timmerman Airport has been modified. The present control zone does not adequately protect this modified procedure. In addition, due to the present designation of the control zone, any change in the hours during which the control zone is effective requires rule making action which is often time consuming. This requirement will be eliminated by altering the control zone designation to permit its effective hours to be changed by NOTAM. Finally, the alteration contained herein will increase the control zone to the normal 5-mile radius. As a result, and having completed a comprehensive review of the terminal airspace structural requirements at Timmerman Airport, Milwaukee, Wis., the Federal Aviation Administration proposes the following airspace action:

Redesignate the Milwaukee, Wis. (Timmerman Airport), control zone as that airspace within a 5-mile radius of Timmerman Airport (latitude 43°06'40" N., longitude 88°02'05" W.); within 2 miles each side of the Timmerman VOR 336° radial, extending from the 5-mile radius zone to 7 miles northwest of the VOR; and within 2 miles each side of the Timmerman VOR 214° radial, extending from the 5-mile zone to 6 miles southwest of the VOR. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airman's Information Manual.

During the times the proposed control zone is in effect, it will provide controlled

airspace protection for aircraft executing prescribed arrival and departure procedures at Timmerman Airport during descent below 1,000 feet above the surface and during climb to 700 feet above the surface. The control zone will continue to be effective during the hours that the FAA control tower is in operation at Timmerman Airport, presently from 0600 to 2200 hours, local time, daily. The FAA will continue to provide weather observations and disseminate weather information during the times that the control zone is in effect. In the event the hours for the operation of the control tower change, the effective times of the control zone will change. When this occurs, notice will be given prior to any such change by a Notice to Airman, and continuously published thereafter in the Airman's Information Manual.

Specific details of this proposal may be examined by contacting the Chief, Standards and Airspace Branch, Air Traffic Division, Federal Aviation Administration, 601 East 12th Street, Kansas City, Mo. 64106.

Interested persons may submit such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Director, Central Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Federal Building, 601 East 12th Street, Kansas City, Mo. 64106. All communications received within 45 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The public docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, Federal Building, 601 East 12th Street, Kansas City, Mo. 64106.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348).

Issued at Kansas City, Mo., on April 20, 1967.

DANIEL E. BARROW,
Acting Director, Central Region.

[F.R. Doc. 67-4976; Filed, May 3, 1967;
8:47 a.m.]

[14 CFR Part 71]

[Airspace Docket No. 67-EA-6]

CONTROL ZONE AND TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering amending §§ 71.171 and 71.181 of Part 71 of the Federal Aviation

Regulations which would alter the Presque Isle, Maine, control zone and 700-foot-floor transition area.

The amendment would reflect the conversion of the Spragueville, Maine, LFR to an RBN and a 2-degree change in the bearing of the control zone from the RBN. There will also be an editorial change in the effective times of the control zone.

Since this amendment is minor in nature, notice and public procedure hereon are unnecessary and the amendment may be effective in less than 30 days.

In view of the foregoing the amendment is hereby adopted effective April 27, 1967, as follows:

1. Amend § 71.171 of Part 71 of the Federal Aviation Regulations so as to delete in the Presque Isle, Maine, control zone all after the word "Spragueville" and insert in lieu thereof "RBN 169° bearing extending from the 5-mile radius zone to 7 miles south of the RBN. This control zone is effective from 0800 to 2000 hours local time, Sunday through Friday; 0800 to 1730 hours, local time Saturday; and during specific times established in the Notices to Airmen."

2. Amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to delete in the Presque Isle, Maine, Transition Area the phrase "Spragueville R.R. south course extending from the 8-mile radius area to 8 miles south of the R.R.", and insert in lieu thereof "Spragueville RBN 169° bearing extending from the 8-mile radius area to 8 miles south of the RBN."

(Sec. 307(a), Federal Aviation Act of 1958; 72 Stat. 749; 49 U.S.C. 1348)

Issued in Jamaica, N.Y., on April 18, 1967.

WAYNE HENDERSHOT,
Acting Director.

[F.R. Doc. 67-4977; Filed, May 3, 1967;
8:47 a.m.]

[14 CFR Part 71]

[Airspace Docket No. 67-CE-48]

TRANSITION AREAS

Proposed Designation and Alteration

The Federal Aviation Administration is considering an amendment to Part 71 of the Federal Aviation Regulations which would designate controlled airspace in the Cloquet, Minn., terminal area and alter controlled airspace in the Duluth, Minn., terminal area.

The Duluth, Minn., transition area is presently designated as follows:

That airspace extending upward from 700 feet above the surface within an 8-mile radius of Duluth, Minn., International Airport (latitude 46°50'28" N., longitude 92°11'35" W.); within 2 miles each side of the Duluth VORTAC 023° radial extending from the 8-mile radius area to 18 miles northeast of the VORTAC; and within 2 miles each side of the Duluth ILS west course extending from the 8-mile radius area to 8 miles west of the OM; and that airspace extending upward from 1,200 feet above the surface within a 35-mile radius of Duluth International Airport; within 8 miles northwest and 5 miles southeast of the Duluth VORTAC 051°

radial extending from the 35-mile radius area to 41 miles northeast of the VORTAC; and within 8 miles east and 5 miles west of the Duluth VORTAC 197° radial extending from the 35-mile radius area to 34 miles south of the VORTAC; excluding the portion which overlies the Hibbing, Minn., transition area.

A new public-use instrument approach procedure has been developed for the Cloquet, Minn., Municipal Airport, utilizing the Duluth, Minn., VORTAC facility as a navigational aid. The Duluth VORTAC facility is located 14 nautical miles northeast of the Cloquet Municipal Airport. As a result, and having completed a comprehensive review of the airspace structural requirements at Cloquet, Minn., the Federal Aviation Administration proposes to take the following airspace action:

(1) Designate the Cloquet, Minn., transition area as that airspace extending upward from 700 feet above the surface within a 5-mile radius of Cloquet Municipal Airport (latitude 46°42'02" N., longitude 92°30'23" W.); and within 2 miles each side of the Duluth, Minn., VOR 244° radial, extending from the 5-mile radius area southwest to 22 miles southwest of the VOR.

(2) Redesignate the Duluth, Minn., transition area as that airspace extending upward from 700 feet above the surface within an 8-mile radius of Duluth International Airport (latitude 46°50'28" N., longitude 92°11'35" W.); within 2 miles each side of the Duluth VOR 023° radial, extending from the 8-mile radius area to 18 miles northeast of the VOR; and within 2 miles each side of the Duluth ILS localizer west course, extending from the 8-mile radius area to 8 miles west of the OM; and that airspace extending upward from 1,200 feet above the surface within a 35-mile radius of Duluth International Airport; within a 34-mile radius of the Duluth VOR; and within 8 miles northwest and 5 miles southeast of the Duluth VOR 051° radial, extending from the 35-mile radius area to 41 miles northeast of the VOR; excluding the portion which overlies the Hibbing, Minn., transition area.

The Cloquet, Minn., proposed 700-foot floor transition area will provide controlled airspace protection for departing aircraft during climb from 700 to 1,200 feet above the surface. It will also provide this protection for aircraft executing the prescribed instrument approach procedure during descent from 1,500 to 700 feet above the surface.

The proposed 1,200-foot floor transition area at Duluth, Minn., will provide controlled airspace for the protection of the DME arc portion of the new instrument approach procedure for Cloquet Municipal Airport. The proposed Duluth, Minn., 700-foot floor transition area will remain the same as it is presently designated.

The floors of the airways that traverse the transition areas proposed herein will automatically coincide with the floors of the transition areas.

Specific details of this proposal and the procedure which it was developed to protect may be examined by contacting the Chief, Standards and Airspace Branch, Air Traffic Division, Federal

Aviation Administration, 601 East 12th Street, Kansas City, Mo. 64106.

Interested persons may submit such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Director, Central Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Federal Building, 601 East 12th Street, Kansas City, Mo. 64106. All communications received within 45 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The public docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, Federal Building, 601 East 12th Street, Kansas City, Mo. 64106.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348).

Issued at Kansas City, Mo., on April 20, 1967.

DANIEL E. BARROW,
Acting Director, Central Region.

[F.R. Doc. 67-4978; Filed, May 3, 1967;
8:47 a.m.]

CIVIL AERONAUTICS BOARD

[14 CFR Part 378]

[Docket No. 18487; SPDR-8]

INCLUSIVE TOURS BY SUPPLEMENTAL AIR CARRIERS AND TOUR OPERATORS

Notice of Proposed Rule Making

MAY 1, 1967.

Notice is hereby given that the Civil Aeronautics Board has under consideration an amendment to Part 378 which would extend the requirement of prior approval of all inclusive tour charters through December 31, 1968. The reasons for the proposal are set out in the explanatory statement. The amendment is proposed under authority of section 204 (a) of the Federal Aviation Act of 1958, as amended, 72 Stat. 743; 49 U.S.C. 1324.

Interested persons may participate in the proposed rule making by submission of ten (10) copies of written data, views, or arguments pertaining thereto, addressed to the Docket Section, Civil Aeronautics Board, Washington, D.C. 20428. All relevant matter in communications received on or before June 5, 1967, will be considered by the Board.

Copies of such communications will be available for examination by interested persons in the Docket Section of the Board, Room 710, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C., upon receipt thereof.

By the Civil Aeronautics Board.

[SEAL] HAROLD R. SANDERSON,
Secretary.

Explanatory statement. In enacting Part 378 to authorize supplemental air carriers to perform inclusive tour charters for tour operators, the Board decided that such authority should be subject to a prior approval procedure, rather than under "blanket exemption," during the initial stage, primarily because the administration of the tour program would involve problems which could not be anticipated. Inasmuch as such a procedure would impose substantial burdens on the Board and the carrier and it was believed that its indefinite duration was unnecessary, provision was made in the regulation for the lapse of the prior approval requirements on January 1, 1968, at which time the authority to conduct inclusive tours would be by blanket exemption. However, the Board reserved the right to extend the prior approval requirement should such a step be found necessary.

After approximately 1 year's administration of the program, we are of the view that extension of the prior approval procedure is necessary. Prospective tour operators are still generally unfamiliar with the requirements of Part 378, and significant problems continue to arise in processing applications thereunder. In sum, we believe that the limited experience to date under the prior approval procedure is such that before permitting a blanket exemption to take effect we should continue, at least for an additional year, to exercise control over inclusive tour operations so as to insure compliance with the regulations and the qualifications of tour operators. Accordingly, it is proposed to extend the statement of authorization procedure for an additional year.

Proposed rule. It is proposed to amend Part 378 of the Special Regulations (14 CFR Part 378) as follows:

1. Amend § 378.10 to read:

§ 378.10 Requirement of a Statement of Authorization.

No inclusive tour or series of tours scheduled to commence on or before December 31, 1968, shall be operated, nor shall any tour operator sell or offer to sell, solicit, or advertise such tour or tours, unless there shall be in effect a statement of authorization issued by the Board authorizing the specific tour or series of tours.

2. Amend paragraph (a) of § 378.18 to read:

¹ Supplemental Air Service Proceeding, Order E-23350, Mar. 11, 1966, pp. 17-18. Part 378 was adopted concurrently (SPR-14), effective May 13, 1966.

² During 1966-67, 15 applications for inclusive tour authority were granted, four denied, and five dismissed.

§ 378.18 Procedure applicable to periods on or after January 1, 1968.

(a) No inclusive tour or series of tours scheduled to commence on or after January 1, 1969, shall be operated, nor shall any tour operator sell or offer to sell, solicit, or advertise such tour or tours, unless there is on file with the Board a tour prospectus satisfying the requirements of § 378.13. If a series of tours is to be operated for one tour operator pursuant to one charter contract, the prospectus may cover the entire series, provided the elapsed time between the commencement of the first tour and the completion of the last tour shall not be over 180 days. The tour prospectus shall be filed at least 60 days before commencement of the tour or tours. Late filing of the prospectus will not be permitted except for good cause shown.

[F.R. Doc. 67-4992; Filed, May 3, 1967; 8:48 a.m.]

DEPARTMENT OF AGRICULTURE

Consumer and Marketing Service

[7 CFR Part 52]

CANNED SPINACH

U.S. Standards for Grades¹

A notice of proposed rule making was published in the FEDERAL REGISTER of March 1, 1966 (31 F.R. 3253), regarding a revision of the U.S. Standards for Grades of Canned Spinach (7 CFR 52.1901-52.1911) pursuant to the authority contained in the Agricultural Marketing Act of 1946 (sec. 205, 60 Stat. 1090, as amended; 7 U.S.C. 1624). Interested persons were allowed until January 1, 1967, to submit written data, views, or arguments for consideration in connection with the proposed revision. In view of additions and changes proposed the U.S. Department of Agriculture desires further consideration by interested parties.

All persons who desire to submit written data, views, or arguments for consideration in connection with the proposal should file the same in duplicate, not later than January 1, 1968, with the Hearing Clerk, U.S. Department of Agriculture, Room 112, Administration Building, Washington, D.C. 20250. All written submission made pursuant to this notice will be available for public inspection at the office of the Hearing Clerk during regular business hours (par. (b) of § 1.27, as amended, at 29 F.R. 7311).

Statement of considerations leading to the second proposed revision. A proposal to revise the grade standards for canned spinach was published in the FEDERAL REGISTER of March 1, 1966. Changes proposed included:

¹ Compliance with the provisions of these standards shall not excuse failure to comply with the provisions of the Federal Food, Drug, and Cosmetic Act or with applicable State laws and regulations.

(1) Two separate styles subjectively defined to be designated as:

- (a) "Whole leaf"; and
- (b) "Cut Leaf" or "Sliced".

(2) A modification of the method for ascertaining drained weights;

(3) Lowering of the drained weight values for all container sizes except the No. 10 size;

(4) An introduction of a new standardization concept using attributes principles.

Interested persons were given until January 1, 1967, to submit comments, views, and arguments.

Comments received regarding the proposal from the Cannery League of California, Ozark Cannery and Freezers Association, and some individual spinach canners suggested the following:

(1) The study of the new concept be extended for a period of 1 year because the quality of the raw product during the 1966 spinach canning season was such that it was not possible to evaluate the applicability of the proposed allowances;

(2) Further consideration be given to drained weight requirements, specifically the values proposed for No. 10 containers. A lowering of the drained weight values for this container size was suggested by the Cannery League of California.

(3) A third style to be designated as "Chopped" be included since this style comprises a substantial proportion of the canned spinach pack in the Ozark area;

(4) Objective definitions for the styles of "Cut leaf" or "Sliced" and "Chopped";

(5) Allowances for defects specifically applicable to the style of "chopped".

The Cannery League of California later requested the grade standards be amended to include certain portions of the proposal. These portions were restricted to:

(1) Inclusion of the two styles proposed;

(2) The modified method for ascertaining drained weights;

(3) The proposed drained weight values except as modified for the No. 10 container size and the lower limit value for No. 2½ container.

An amendment to the U.S. Standards for Grades of Canned Spinach was published in the FEDERAL REGISTER of March 23, 1967, to become effective on that date which complied with the aforementioned request.

A supplemental amendment to include the style of "Chopped" in the Canned Spinach grade standards was published in the FEDERAL REGISTER of April 14, 1967, to become effective upon publication on request of the Ozark Cannery and Freezers Association.

The second notice of proposed rule making will provide an opportunity for additional study of the attributes concept of standards. In addition to the attributes principles employed, the following changes in the amended grade standards are proposed:

(1) Objective definitions for the styles of "Cut Leaf" or "Sliced" and "Chopped"—Chopped style was not included in the March 1, 1966, proposal;

(2) Separate allowances applicable to the style of "Chopped";

(3) Specific allowances for stem material—Previously proposed but increased slightly in second proposal;

(4) The nomenclature for the grade currently designated as Grade C (Standard) would be changed to Grade B (Extra Standard)—Previously proposed).

The new concept would incorporate the following changes in standardization format and context:

(1) The current quality factors of "Color", "Absence of Defects", and "Character" would be combined under one basic factor designated as "Defects". Defects would be classified as "Minor", "Major", and "Severe" according to the degree of intensity or to the adverse effect on the appearance or eating quality of the product.

(2) Stem material, currently considered under the factor of character, would be made a separate quality factor.

(3) Allowances currently provided for in the separate quality factors would be statistically combined to provide allowances for the different degrees of defects.

(4) A sample unit size consisting of 10 ounces of drained spinach, regardless of container size, would be specified.

(5) The numerical scoring system currently employed would be eliminated and the grade of a lot of canned spinach would be ascertained on an attribute basis.

(6) A new sampling plan would reflect a more constant relationship between total sample weight and lot weight regardless of container size.

(7) Acceptance criteria would be provided for the determination of compliance with quality requirements as well as compliance with drained weights.

(8) A new score sheet is proposed which would require recording the number of the various classes of defects rather than the numerical scores of each quality factor as currently required.

Representatives of the U.S. Department of Agriculture will be available upon appointment to discuss and demonstrate the proposed revision to interested persons during the period from date of publication of this proposal in the FEDERAL REGISTER and January 1, 1968. Requests for such appointments should be made in writing to:

Chief, Processed Products Standardization and Inspection Branch, Fruit and Vegetable Division, C&MS U.S. Department of Agriculture, Washington, D.C. 20250.

The proposed revision is as follows:

Subpart—U.S. Standards for Grades of Canned Spinach

PRODUCT DESCRIPTION, STYLES, GRADES

Secn.	Product description.
52.1901	Product description.
52.1902	Styles of canned spinach.
52.1903	Grades of canned spinach.

DEFINITIONS OF TERMS AND SYMBOLS

52.1904	Definitions of terms and symbols.
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FILL OF CONTAINER

52.1905	Recommended fill of container.
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RECOMMENDED DRAINED WEIGHTS

§ 52.1906 Recommended drained weights.

FACTORS OF QUALITY

§ 52.1907 Factors of quality.

PRODUCT CHARACTERISTICS

§ 52.1908 Classification of defects.

TOLERANCES FOR GRADE COMPLIANCE

§ 52.1909 Tolerances for stem material.

§ 52.1910 Tolerances for color, character, damage, and harmless extraneous material.

LOT ACCEPTANCE

§ 52.1911 Lot acceptance for drained weights.

§ 52.1912 Lot acceptance for quality.

SAMPLING PLANS

§ 52.1913 Single sampling plans and acceptance levels.

SCORE SHEET

§ 52.1914 Score sheet for canned spinach.

AUTHORITY: The provisions of this subpart issued under sec. 205, 60 Stat. 1090, as amended; 7 U.S.C. 1624.

PRODUCT DESCRIPTION, STYLES, GRADES

§ 52.1901 Product description.

"Canned Spinach", as defined in the definitions and standards of identity for canned vegetables (21 CFR 51.990) issued pursuant to the Federal Food, Drug, and Cosmetic Act, means the product properly prepared from the succulent leaves of the spinach plant and is packed with the addition of water in hermetically sealed containers and sufficiently processed by heat to prevent spoilage. Citric acid or a vinegar may be added in a quantity not more than sufficient to permit effective processing by heat without discoloration or other impairment of the product. One or more of the optional seasoning ingredients may be added in a quantity sufficient to season the food:

- (a) Salt,
- (b) A vinegar,
- (c) Spice,
- (d) Refined sugar (sucrose),
- (e) Refined corn sugar (dextrose),
- (f) Corn sirup, dried corn sirup, glucose sirup, dried glucose sirup,
- (g) Monosodium glutamate.

§ 52.1902 Styles of canned spinach.

(a) "Whole leaf" spinach consists substantially of the leaf and adjoining portion of the stem.

(b) "Cut leaf" or "Sliced" spinach consists of the leaf and adjoining portion of stem that has been cut predominantly into large pieces approximating $\frac{3}{4}$ inch or more in the longest dimension or cut predominantly into approximate strips.

(c) "Chopped" spinach consists of the leaf and adjoining portion of stem that has been cut predominantly into small pieces less than approximately $\frac{3}{4}$ inch in the longest dimension.

§ 52.1903 Grades of canned spinach.

(a) "U.S. Grade A" (or "U.S. Fancy") is the quality of canned spinach that has a good flavor and odor and has an attractive appearance and eating quality within the limitations as specified herein with respect to: (1) Color; (2) character;

(3) stem material; (4) damage; and (5) harmless extraneous material.

(b) "U.S. Grade B" (or "U.S. Extra Standard") is the quality of canned spinach that has a good flavor and odor and has a reasonably attractive appearance and eating quality within the limitations as specified herein with respect to: (1) Color; (2) character; (3) stem material; (4) damage; and (5) harmless extraneous material.

(c) "Substandard" is the quality of canned spinach that fails to meet the requirements for "U.S. Grade B."

DEFINITIONS OF TERMS AND SYMBOLS

§ 52.1904 Definitions of terms and symbols.

(a) Terms.

Defect ----- Any specifically defined variation from a particular requirement.

Deviant ----- A sample unit that exceeds an upper limit (such as for stem material or various defect classifications) or fails to meet a lower limit (such as drained weights).

Sample ----- Any number of sample units to be used for inspection of a lot.

Sample Unit ----- The entire contents of a container, a portion of the contents of a container, or a combination of the contents of two or more containers as specified to be used for inspection.

(b) Symbols.

Avg. (or $\bar{X}'_{min}$) ----- Minimum sample average drained weight.

LL ----- Lower limit for individual drained weights.

UL ----- Upper limit is the value which represents the maximum amount of stem material or the maximum number of defects a sample unit may have for a grade classification.

FILL OF CONTAINER

§ 52.1905 Recommended fill of container.

The recommended fill of container is not incorporated in the grades of the finished product since fill of container, as such, is not a factor of quality for the purpose of these grades. The recommended fill of container for canned spinach is the maximum amount of spinach that can be sealed in a container and processed by heat without impairment of quality. It is recommended that the product and packing medium occupy not less than 90 percent of the water capacity of the container.

RECOMMENDED DRAINED WEIGHTS

§ 52.1906 Recommended drained weights.

(a) *General.* The recommended drained weight values in Table I of this subpart are not incorporated in the grades of the finished product, since drained weight, as such, is not a factor of quality for the purpose of these grades.

(b) *Method for ascertaining drained weight.* The drained weight of canned spinach is determined when the product is at approximately room temperature (68° F.). The contents of the containers are emptied upon a U.S. Standard No. 8 circular sieve of proper diameter containing 8 meshes to the inch (0.00937 $\pm$ 3 percent square openings). With the sieve flat on the tray, the container of spinach is placed open end down in the sieve in an upright position. The container is lifted off the spinach without spreading the spinach out on the sieve. The spinach is allowed to drain for exactly 2 minutes. The weight of the spinach and sieve minus the weight of the dry sieve is the drained weight of the spinach. A sieve 8 inches in diameter is used for the equivalent of a No. 3 size can (404 x 700) and smaller and a sieve 12 inches in diameter is used for containers larger than the equivalent of a No. 3 size can.

TABLE I—RECOMMENDED MINIMUM DRAINED WEIGHTS FOR CANNED SPINACH¹

Container designation (metal, unless otherwise stated)	Container size overall dimensions		Capacity weight H ₂ O at 68° F.—ounces (avoirdupois)	Minimum drained weight—ounces (avoirdupois)	
	Diameter (inches)	Height (inches)		LL	Avg. or $\bar{X}'_{min}$
82 tall	2 $\frac{1}{4}$	3 $\frac{1}{2}$	8.65	4.8	5.2
No. 1 picnic	2 $\frac{1}{4}$	4	10.90	6.3	6.8
No. 300	3	4 $\frac{1}{2}$	15.20	8.6	9.1
No. 1 tall	3 $\frac{1}{4}$	4 $\frac{1}{2}$	16.60	9.4	10.0
No. 303	3 $\frac{1}{2}$	4 $\frac{1}{2}$	16.85	9.6	10.2
No. 303 glass			17.70	9.4	10.0
No. 2	3 $\frac{1}{2}$	4 $\frac{3}{4}$	20.50	11.9	12.6
No. 2 $\frac{1}{2}$	4 $\frac{1}{2}$	4 $\frac{3}{4}$	20.75	17.6	18.6
No. 2 $\frac{1}{2}$ glass			20.50	15.8	16.6
No. 10	6 $\frac{1}{2}$	7	100.45	54.7	58.4

¹ These drained weights are the same as those published in the FEDERAL REGISTER of Mar. 23, 1967, to become effective on that date.

FACTORS OF QUALITY

§ 52.1907 Factors of quality.

(a) *General.* The grade of a lot of canned spinach is based on requirements for product characteristics with respect to the following quality factors:

- (1) Flavor and odor;

- (2) Color;

- (3) Character;

- (4) Stem material;

- (5) Damage;

- (6) Harmless extraneous material.

(b) *Sample unit size.* Compliance with requirements for factors of quality is based on:

(b) The number of deviants for drained weight do not exceed the applicable acceptance number specified in the single sampling plan contained in Table VI of this subpart.

§ 52.1912 Lot acceptance for quality.

A lot of canned spinach shall be considered as meeting the quality requirements for the applicable grade as specified in this subpart: *Provided, That:*

(a) The sample average values for the various defect classifications specified in Table IV or Table V, as applicable for the style of this subpart are not exceeded;

(b) The number of deviants from the requirements for stem material specified in Table III as applicable for the grade does not exceed the applicable acceptance number specified in the Single Sampling Plan (Table VI) of this subpart (deviants for stem material are permitted in addition to other deviants);

(c) The number of deviants from the requirements for defects specified in Table IV or Table V, for the applicable style, for the respective grade does not exceed the acceptance number specified

for the sample size in the Single Sampling Plan (Table VI) of this subpart;

(d) When the order of production is known, no three deviants out of five successive sample units occur; and

(e) The product meets the requirements for flavor and odor.

SAMPLING PLANS

§ 52.1913 Single sampling plans and acceptance levels.

The minimum sample size for canned spinach shall be the exact number of sample units prescribed in Table VI of this subpart.

TABLE VI—SINGLE SAMPLING PLANS AND ACCEPTANCE LEVELS

Container size or designation	Lot size (number of containers)									
	4,600 or less	4,601-22,900	22,901-48,200	48,201-91,500	91,501-137,200	137,201-205,800	205,801-320,000	320,001-460,000	Over 460,000	
No. 1 picnic (211 x 400).....	3,500 or less	3,501-17,300	17,301-34,600	34,601-69,300	69,301-103,900	103,901-155,800	155,801-242,400	242,401-350,000	Over 350,000	
No. 300 (309 x 407).....										
No. 1 tall (301 x 411).....										
No. 203 (303 x 406).....	2,400 or less	2,401-12,000	12,001-24,000	24,001-48,000	48,001-72,000	72,001-108,000	108,001-168,000	168,001-240,000	Over 240,000	
No. 303 glass (303 x 411).....										
No. 2 (307 x 409).....										
No. 2-1/4 (401 x 411).....	1,300 or less	1,301-6,400	6,401-12,800	12,801-25,500	25,501-38,300	38,301-57,400	57,401-89,300	89,301-130,000	Over 130,000	
No. 2-1/2 glass (401 x 414).....										
No. 10 (603 x 700).....	400 or less	401-2,000	2,001-3,900	3,901-7,800	7,801-11,800	11,801-17,700	17,701-27,500	27,501-40,000	Over 40,000	

SINGLE SAMPLING PLAN FOR QUALITY AND DRAINED WEIGHT COMPLIANCE

Sample size for quality compliance (number of sample units) ¹ and for drained compliance (number of containers). ²	3	6	13	21	29	38	48	60	72
Acceptance number.....	0	1	2	3	4	5	6	7	8

¹ The sample size for quality compliance is expressed in terms of number of sample units—(see § 52.1908).

² The sample size for drained weight compliance is expressed in terms of number of individual containers.

SCORE SHEET

§ 52.1914 Score sheet for canned spinach.

No., size and kind of container.....								
Label.....								
Container mark or identification (cans/glass cases).....								
Net weight (ounces).....								
Vacuum (inches).....								
Drained weight (ounces).....								
Style.....								
Quality factors		Defects						Average
		Minor	Major	Severe	Minor	Major	Severe	
Color.....								
Character.....								
Damage.....								
Harmless extraneous material.....								
Total (each classification).....								
Total (minor major severe).....								
Stem material (A—U.L.=25 percent).....								
(B—U.L.=30 percent).....								
Flavor and odor (Good).....								
(Objectionable).....								

Dated: April 26, 1967.

G. R. GRANGE,
Deputy Administrator,
Marketing Services.

[F.R. Doc. 67-4848; Filed, May 3, 1967; 8:45 a.m.]

Notices

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[Serial No. N-891]

NEVADA

Notice of Proposed Classification of Public Lands; Correction

APRIL 27, 1967.

Notice of proposed classification, serial number Nevada 891, for retention for multiple use management was published as F.R. Doc. No. 67-3492 on page 5376 of the issue for Thursday, March 30, 1967.

The legal description of the lands involved in paragraph 4 should be corrected to read as follows:

MOUNT DIABLO MERIDIAN, NEVADA

- T. 43 N., R. 28 E., unsurveyed,
Secs. 1 and 2;
Sec. 3, E $\frac{1}{2}$ NE $\frac{1}{4}$;
Sec. 11, N $\frac{1}{2}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ NW $\frac{1}{4}$;
Sec. 12, N $\frac{1}{2}$;
T. 44 N., R. 28 E., unsurveyed,
Sec. 34, SE $\frac{1}{4}$ SE $\frac{1}{4}$;
Sec. 35, S $\frac{1}{2}$;
Sec. 36, S $\frac{1}{2}$ S $\frac{1}{2}$;
T. 43 N., R. 29 E., unsurveyed,
Sec. 6, W $\frac{1}{2}$;
Sec. 7, NW $\frac{1}{4}$ NW $\frac{1}{4}$;
T. 44 N., R. 29 E., unsurveyed,
Sec. 35, S $\frac{1}{2}$ S $\frac{1}{2}$.

The areas described above aggregate approximately 3,100 acres.

The correction will not affect the acreage as indicated above.

For the State Director.

DANIEL P. BAKER,
Manager, Nevada Land Office.

[F.R. Doc. 67-4985; Filed, May 3, 1967;
8:47 a.m.]

[Serial No. N-892]

NEVADA

Notice of Proposed Classification of Public Lands; Correction

Notice of proposed classification, serial number Nevada 892, for retention for multiple use management, was published as F.R. Doc. No. 67-3493 on pages 5376 and 5377 of the issue for Thursday, March 30, 1967.

The legal description of the lands described in paragraph 4, other lands excluded from proposed classification, should be corrected, in part, to read as follows:

MOUNT DIABLO MERIDIAN, NEVADA

- T. 1 N., R. 67 E.,
Sec. 12, W $\frac{1}{2}$ NW $\frac{1}{4}$, S $\frac{1}{2}$;
T. 1 N., R. 68 E.,
Sec. 7, Lot 4;
T. 2 N., R. 70 E.,
Sec. 6, E $\frac{1}{2}$ SE $\frac{1}{4}$, SE $\frac{1}{4}$ NE $\frac{1}{4}$;
T. 2 N., R. 69 E.,
Sec. 35, E $\frac{1}{2}$ SE $\frac{1}{4}$, SE $\frac{1}{4}$ NE $\frac{1}{4}$;
T. 1 N., R. 69 E.,
Sec. 2, SE $\frac{1}{4}$, Lot 1, SE $\frac{1}{4}$ NE $\frac{1}{4}$.

The total acreage of other lands excluded from proposed classification should be corrected to read:

Total acreage: 16,107.18.

For the State Director.

DANIEL P. BAKER,
Manager, Nevada Land Office.

[F.R. Doc. 67-4984; Filed, May 3, 1967;
8:45 a.m.]

[New Mexico 2044]

NEW MEXICO

Notice of Proposed Withdrawal and Reservation of Lands

APRIL 26, 1967.

The Forest Service, U.S. Department of Agriculture has filed application, Serial No. New Mexico 2044 for the withdrawal of lands described below. The lands were conveyed to the United States pursuant to section 8 of the Taylor Grazing Act. They lie within the exterior boundaries of the Cibola National Forest. They have not been open to entry under the public land laws. The applicant desires the lands for the addition to, and the consolidation with national forest lands to permit more efficient administration thereof in the conservation of national resources.

For a period of 30 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned officer of the Bureau of Land Management, Department of the Interior, Chief, Division of Lands and Minerals Program Management and Land Office, Post Office Box 1449, Santa Fe, N. Mex. 87501.

The authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the lands and their resources. He will also undertake negotiations with the applicant agency with the view of adjusting the application to reduce the area to the minimum essential to meet the applicant's needs, to provide for the maximum concurrent utilization of the lands for purposes other than the applicant's, to eliminate lands needed for purposes more essential than the applicant's, and to reach agreement on the concurrent management of the lands and their resources.

He will also prepare a report for consideration by the Secretary of the Interior who will determine whether or not the lands will be withdrawn as requested by the Forest Service.

The determination of the Secretary on the application will be published in the FEDERAL REGISTER. A separate notice will be sent to each interested party of record.

If circumstances warrant it, a public hearing will be held at a convenient time and place, which will be announced.

The lands involved in the application are:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

- T. 11 N., R. 11 W.,
Sec. 5, lots 1, 2, 3, 4, S $\frac{1}{2}$ N $\frac{1}{2}$, and S $\frac{1}{2}$;
Sec. 7, lots 1, 2, 3, 4, E $\frac{1}{2}$ W $\frac{1}{2}$, and E $\frac{1}{2}$;
Secs. 8 and 9;
Sec. 33, E $\frac{1}{2}$, S $\frac{1}{2}$ NW $\frac{1}{4}$, and SW $\frac{1}{4}$.

The area described aggregates 3,108.64 acres.

MICHAEL T. SOLAN,
Chief, Division of Lands and Minerals, Program Management and Land Office.

[F.R. Doc. 67-4965; Filed, May 3, 1967;
8:45 a.m.]

[Montana 1786(SD)]

SOUTH DAKOTA

Notice of Proposed Withdrawal and Reservation of Lands

APRIL 26, 1967.

The Department of Agriculture, on behalf of the Forest Service, has filed application, Montana 1786(SD), for the withdrawal of the lands described below, from location and entry under the mining laws, subject to existing valid claims.

The applicant desires the land for the development of roadside zones and a Y interchange on Highway U.S. 16 in the Black Hills National Forest, S. Dak.

For a period of 30 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned officer of the Bureau of Land Management, Department of the Interior, 316 North 26th Street, Billings, Mont. 59101.

The Department's regulations (43 CFR 2311.1-3(c)) provide that the authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the lands and their resources. He will also undertake negotiations with the applicant agency with the view of adjusting the application to reduce the area to the minimum essential to meet the applicant's needs, to provide for the maximum concurrent utilization of the lands for the purpose other than the applicant's, to eliminate lands needed for purposes more essential than the applicant's, and to reach agreement on the concurrent management of the lands and their resources.

The authorized officer will also prepare a report for consideration by the Secretary of the Interior who will determine whether or not the lands will be withdrawn as requested by the applicant agency.

The determination of the Secretary on the application will be published in the FEDERAL REGISTER. A separate notice will be sent to each interested party of record.

If circumstances warrant, a public hearing will be held at a convenient time and place, which will be announced.

The lands involved in the application are:

BLACK HILLS NATIONAL FOREST

BLACK HILLS PRINCIPAL MERIDIAN

Keystone Y and U.S. Highway 16 Roadside Zone

T. 1 S., R. 6 E.,

Sec. 20, S $\frac{1}{2}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$, and SW $\frac{1}{4}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$;
Sec. 31, N $\frac{1}{2}$ SE $\frac{1}{4}$, NE $\frac{1}{4}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$, and SE $\frac{1}{4}$ NE $\frac{1}{4}$;

Sec. 32, NW $\frac{1}{4}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$, and NW $\frac{1}{4}$ NW $\frac{1}{4}$.

Except mineral patents identified as M.S. 1257 Oregon and Colorado Lodes and portions of M.S. 1198 Golden Lode and M.S. 1895 Yankton Lode with 22.3 acres, more or less. The net area described aggregates 187.7 acres, more or less.

Also: A strip of land 350 feet on each side of the centerline on undivided portions of U.S. Highway 16 through the following legal subdivisions:

T. 1 S., R. 6 E.,

Sec. 12, Lot 8;

Sec. 13, Lot 1, SW $\frac{1}{4}$ NE $\frac{1}{4}$;

Sec. 21, SE $\frac{1}{4}$ SE $\frac{1}{4}$;

Sec. 28, N $\frac{1}{2}$ NE $\frac{1}{4}$, N $\frac{1}{2}$ NW $\frac{1}{4}$, and SW $\frac{1}{4}$ NW $\frac{1}{4}$;

Sec. 29, SE $\frac{1}{4}$ NE $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$, S $\frac{1}{2}$ SW $\frac{1}{4}$, and NE $\frac{1}{4}$ SW $\frac{1}{4}$;

Sec. 30, Lot 7, SE $\frac{1}{4}$ SW $\frac{1}{4}$;

Sec. 31, Lot 1, NW $\frac{1}{4}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$.

These undivided highway areas, as described, aggregate 212 acres.

Also: A strip of land including 350 feet outside of the centerline of each of the roadways and the interspace between divided portions of U.S. Highway 16 through the following legal subdivisions:

T. 1 S., R. 6 E.,

Sec. 13, SW $\frac{1}{4}$ NE $\frac{1}{4}$;

Sec. 14, SW $\frac{1}{4}$ SE $\frac{1}{4}$;

Sec. 21, SE $\frac{1}{4}$ SE $\frac{1}{4}$;

Sec. 22, SE $\frac{1}{4}$ SE $\frac{1}{4}$;

Sec. 23, NE $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$, and NW $\frac{1}{4}$ SE $\frac{1}{4}$;

Sec. 27, NW $\frac{1}{4}$ NE $\frac{1}{4}$;

Sec. 28, NE $\frac{1}{4}$ NE $\frac{1}{4}$.

Except H.E.S. 279, consisting of 23.18 acres in the SW $\frac{1}{4}$ of sec. 23.

The net area of the areas described aggregates 202 acres, more or less.

The total area described aggregates 601.7 acres, more or less.

EUGENE H. NEWELL,
Land Office Manager.

[F.R. Doc. 67-4963; Filed, May 3, 1967;
8:45 a.m.]

PROCUREMENT AGENTS, CONTRACTING UNIT

Redelegation of Authority Regarding Contracts and Leases

APRIL 26, 1967.

SECTION 1. *Authority.* Pursuant to the authority contained in section 2 of Order No. 698 of the Bureau of Land Management and Amendment 11 thereto, the following are hereby redelegated the authority contained therein in amounts up to \$10,000; except that procurements from established sources

(GSA, FSS, etc.) may be made in any amount:

(a) Procurement Agents (Contracting Unit).

SEC. 2. *Effective date.* This order is effective upon publication in the FEDERAL REGISTER.

RALPH J. MITCHELL,
Acting Director,
Denver Service Center.

APRIL 26, 1967.

[F.R. Doc. 67-4966; Filed, May 3, 1967;
8:46 a.m.]

Bureau of Land Management

[Serial No. N-815]

NEVADA

Notice of Proposed Classification of Public Lands for Multiple Use Man- agement

Correction

In F.R. Doc. 67-4328, appearing in the issue for Thursday, April 20, 1967, at page 6217, lines 11 and 12, column 1, page 6218, should read "Sec. 14, W $\frac{1}{2}$ NE $\frac{1}{4}$, W $\frac{1}{2}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$, S $\frac{1}{2}$ SE $\frac{1}{4}$ ".

DEPARTMENT OF THE TREASURY

Fiscal Service

[Dept. Circ. 570, 1966 Rev., Supp. No. 19]

CITIZENS CASUALTY COMPANY OF NEW YORK

Termination of Authority To Qualify as Surety on Federal Bonds

Notice is hereby given that the Certificate of Authority issued by the Secretary of the Treasury to the Citizens Casualty Company of New York, New York, N.Y., under the provisions of the Act of Congress approved July 30, 1947 (6 U.S.C. 6-13), to qualify as an acceptable surety on recognizances, stipulations, bonds, and undertakings permitted or required by the laws of the United States, will expire on May 31, 1967, and will not be renewed.

Bond approving officers of the Government should, in instances where such action is necessary, secure new bonds with acceptable sureties in lieu of bonds executed by the Citizens Casualty Company of New York.

Dated: May 1, 1967.

[SEAL]

JOHN K. CARLOCK,
Fiscal Assistant Secretary.

[F.R. Doc. 67-4987; Filed, May 3, 1967;
8:47 a.m.]

DEPARTMENT OF AGRICULTURE

Consumer and Marketing Service

ALEXANDER AUCTION SALES & SERVICE ET AL.

Deposting of Stockyards

It has been ascertained, and notice is hereby given, that the livestock mar-

kets named herein, originally posted on the respective dates specified below as being subject to the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 et seq.), no longer come within the definition of a stockyard under said Act and are, therefore, no longer subject to the provisions of the Act.

Name, location of stockyard, and date of posting

Alexander Auction Sales & Service, Buhl, Idaho, Oct. 5, 1965.

G. & L. Sale Barn, Hopedale, Ill., Mar. 29, 1961.

Mound City Livestock Auction Co., Mound City, Kans., Apr. 19, 1963.

Columbus Livestock Commission Co., Columbus, Miss., June 1, 1966.

Lemmon Livestock Sales Co., Lemmon, S. Dak., Nov. 28, 1949.

Notice or other public procedure has not preceded promulgation of the foregoing rule since it is found that the giving of such notice would prevent the due and timely administration of the Packers and Stockyards Act and would, therefore, be impracticable and contrary to the public interest. There is no legal warrant or justification for not depositing promptly a stockyard which is no longer within the definition of that term contained in the Act.

The foregoing is in the nature of a rule granting an exemption or relieving a restriction and, therefore, may be made effective in less than 30 days after publication in the FEDERAL REGISTER. This notice shall become effective upon publication in the FEDERAL REGISTER.

(42 Stat. 159, as amended and supplemented;
7 U.S.C. 181 et seq.)

Done at Washington, D.C., this 28th day of April 1967.

CHARLES G. CLEVELAND,
Chief, Registrations, Bonds, and
Reports Branch, Packers and
Stockyards Division, Con-
sumer and Marketing Serv-
ice.

[F.R. Doc. 67-4993; Filed, May 3, 1967;
8:48 a.m.]

[P. & S. Docket No. 3824]

GREEN CITY AUCTION CO., INC.

Notice of Order Extending Period of Suspension of Modifications of Rates and Charges

On March 30, 1967, an order was issued instituting the following proceeding under Title III of the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 et seq.):

In re Green City Auction Co., Inc., Green City, Mo., Respondent, P. & S. Docket No. 3824 (32 F.R. 5810). Such order, among other things, suspended and deferred the operation and use by the respondent of modifications of its current schedule of rates and charges filed on March 21, 1967, to become effective on April 1, 1967, for a period of 30 days beyond the time such modifications would otherwise go into effect.

Notice is hereby given that, since the hearing in this proceeding cannot be

concluded within such period of suspension, an order was issued in the above proceeding on April 25, 1967, suspending and deferring the operation and use of such modifications of the respondent's current schedule of rates and charges for a further period of 30 days beyond the date when such modifications would otherwise become effective.

Done at Washington, D.C., this 28th day of April 1967.

GLENN G. BIERMAN,
Acting Director, Packers and
Stockyards Division, Con-
sumer and Marketing Service.

[F.R. Doc. 67-4994; Filed, May 3, 1967;
8:48 a.m.]

Federal Crop Insurance Corporation [Notice 20]

CORN AND SOYBEANS IN MICHIGAN Extension of the Closing Date for Fil- ing of Applications for 1967 Crop Year

Pursuant to the authority contained in § 401.3 of Title 7 of the Code of Federal Regulations, as amended, and pursuant to paragraph 1 of the resolution adopted by the Board of Directors of the Federal Crop Insurance Corporation on March 19, 1954, the time for filing applications for corn, and soybean crop insurance for the 1967 crop year in all counties in Michigan where such insurance is otherwise authorized to be offered is hereby extended until the close of business on May 12, 1967. Such applications received during this period will be accepted only after it is determined that no adverse selectivity will result.

JOHN N. LUFT,
Manager,
Federal Crop Insurance Corporation.

[F.R. Doc. 67-4998; Filed, May 3, 1967;
8:48 a.m.]

DEPARTMENT OF COMMERCE

Business and Defense Services Administration

UNIVERSITY OF LOUISVILLE SCHOOL OF MEDICINE ET AL.

Notice of Applications for Duty Free Entry of Scientific Articles

The following are notices of the receipt of applications for duty-free entry of scientific articles pursuant to section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Public Law 89-651; 80 Stat. 897). Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the article is intended to be used is being manufactured in the United States. Such comments must be filed in triplicate with the Director, Office of Scientific and Technical Equipment,

Business and Defense Services Administration, Washington, D.C. 20230, within 20 calendar days after date on which this notice of application is published in the FEDERAL REGISTER.

Regulations issued under cited Act published in the February 4, 1967 issue of the FEDERAL REGISTER, prescribe the requirements applicable to comments.

A copy of each application is on file, and may be examined during ordinary Commerce Department business hours at the Office of Scientific and Technical Equipment, Department of Commerce, Room 5123, Washington, D.C.

A copy of each comment filed with the Director of the Office of Scientific and Technical Equipment must also be mailed or delivered to the applicant, or its authorized agent, if any, to whose application the comment pertains; and the comment filed with the Director must certify that such copy has been mailed or delivered to the applicant.

Docket No. 67-00031-33-46040. Applicant: University of Louisville, School of Medicine, 101 West Chestnut Street, Louisville, Ky. 40202. Article: JEM 50 Electron microscope. Manufacturer: Japan Electron Optics Laboratory Co., Ltd., Japan. Intended use of article: Applicant states:

This instrument is intended for training of medical students and residents of fellows [in the use of an electron microscope] * * * We propose to use the instrument to screen routine biopsy material submitted to the laboratory. The simple operating procedure of this instrument would facilitate such examinations.

Application received by Commissioner of Customs: April 11, 1967.

Docket No. 67-00040-55-46040. Applicant: Woods Hole Oceanographic Institution, Woods Hole, Mass. 02543. Article: Electron microscope, Norelco type EM-300, Model PW 6001 with accessories Specimen chamber cooling device 38300700, 35 mm film transport mechanism 38300300, 35 mm film camera 38300900, Vacuum dessicator 38301000. Manufacturer: N. V. Philips Gloeilampenfabrieken, Holland. Intended use of article: Applicant states:

[Will be used to study.] (1) Bacterial membranes and the localization of enzymes and electron transport systems on these membranes. (2) The interrelationship of structure with function in marine organisms at the submicroscopic level. (3) Fine structural difference between marine and terrestrial microorganisms. (4) The structure of shell proteins of marine invertebrates. (5) Ecological implications of fine structure of marine microorganisms.

Application received by Commissioner of Customs: April 19, 1967.

Docket No. 67-00041-65-46040. Applicant: Northeast Louisiana State College, Department of Physics, 4001 DeSiard Street, Monroe, La. 71201. Article: Electron microscope, Norelco type EM-200. Manufacturer: Philips-Norelco, Holland. Intended use of article: Applicant states:

Examine the effect of different surface environments on the rate of crack formation in metals during fatigue and correlate it to the

observed fracture by continuous observation inside electron microscope. Examine the effect of various deposition parameters on epitaxially grown metallic films by electron transmission.

Application received by Commissioner of Customs: April 21, 1967.

CHARLEY M. DENTON,
Director, Office of Scientific
and Technical Equipment,
Business and Defense Services
Administration.

[F.R. Doc. 67-4956; Filed, May 3, 1967;
8:45 a.m.]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration ELANCO PRODUCTS CO.

Notice of Filing of Petition Regarding Pesticides

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(1), 68 Stat. 512; 21 U.S.C. 346a (d)(1)), notice is given that a petition (PP 7F0588) has been filed by Elanco Products Co., a division of Eli Lilly and Co., Indianapolis, Ind. 46206, proposing the establishment of a tolerance of 0.05 part per million for residues of the herbicide *N*-butyl-*N*-ethyl- α,α,α -trifluoro-2,6-dinitro-*p*-toluidine in or on the raw agricultural commodities alfalfa, clover, and birdsfoot trefoil.

The analytical method proposed in the petition for determining residues of the herbicide is a gas chromatographic technique.

Dated: April 25, 1967.

J. K. KIRK,
Associate Commissioner
for Compliance.

[F.R. Doc. 67-5002; Filed, May 3, 1967;
8:49 a.m.]

ROHM AND HAAS CO.

Notice of Filing of Petition Regarding Pesticides

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(1), 68 Stat. 512; 21 U.S.C. 346a (d)(1)), notice is given that a petition (PP 7F0590) has been filed by Rohm and Haas Co., Independence Mall West, Philadelphia, Pa. 19105, proposing the establishment of a tolerance of 25 parts per million for residues of the insecticide 1,1-bis-(*p*-chlorophenyl)-2,2,2-trichloroethanol in or on the raw agricultural commodities peppermint hay and spearmint hay.

The analytical method proposed in the petition for determining residues of the insecticide is based on that of Rosenthal et al., Journal of Agricultural and Food

Chemistry, Volume 5, pages 514-517 (July 1957).

Dated: April 26, 1967.

J. K. KIRK,
Associate Commissioner
for Compliance.

[F.R. Doc. 67-5003; Filed, May 3, 1967;
8:49 a.m.]

UNION CARBIDE CORP.

Notice of Filing of Petition for Food Additives

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(b) (5), 72 Stat. 1786; 21 U.S.C. 348 (b) (5)), notice is given that a petition (FAP 5B1493) has been filed by Union Carbide Corp., Post Office Box 65, Tarrytown, N.Y. 10591, proposing an amendment to § 121.2526 *Components of paper and paperboard in contact with aqueous and fatty foods* to provide for the safe use of glyoxal as an insolubilizing agent in food-contact coatings.

Dated: April 25, 1967.

J. K. KIRK,
Associate Commissioner
for Compliance.

[F.R. Doc. 67-5004; Filed, May 3, 1967;
8:49 a.m.]

CIVIL AERONAUTICS BOARD

[Docket No. 18143]

RKO GENERAL-PACIFIC AIRMOTIVE CONTROL

Notice of Hearing

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that hearing in the above-entitled proceeding is assigned to be held on May 9, 1967, at 10 a.m., e.d.s.t., in Room 211, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C., before Examiner Merritt Ruhlén.

Dated at Washington, D.C., April 28, 1967.

[SEAL] FRANCIS W. BROWN,
Chief Examiner.

[F.R. Doc. 67-4990; Filed, May 3, 1967;
8:48 a.m.]

[Docket No. 17822]

WESTERN TENNESSEE SERVICE INVESTIGATION

Notice of Hearing

Notice hereby is given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that a hearing in the above-entitled proceeding will be held on May 23, 1967, at 10 a.m. in Council Chambers, Metropolitan Court House, Nashville, Tenn., for civic parties desiring to be heard at that time, and on June 6, 1967, at 10 a.m. in Room 1027, Universal Building, 1825 Connecticut Avenue NW.,

Washington, D.C., for air carriers and civic parties not heard at the first session of the hearing.

For information concerning the issues involved and other details in this proceeding, interested persons are referred to the prehearing conference report served on March 6, 1967, and other documents which are in the docket of this proceeding on file in the Docket Section of the Civil Aeronautics Board.

Dated at Washington, D.C., April 28, 1967.

[SEAL] HERBERT K. BRYAN,
Hearing Examiner.

[F.R. Doc. 67-4991; Filed, May 3, 1967;
8:48 a.m.]

FEDERAL MARITIME COMMISSION

GREECE/UNITED STATES ATLANTIC RATE AGREEMENT

Notice of Agreement Filed for Approval

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1321 H Street NW., Room 609; or may inspect agreements at the offices of the District Managers, New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments with reference to an agreement including a request for hearing, if desired, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the comments should indicate that this has been done.

Notice of agreement filed for approval by:

Mr. P. A. Taormina, Secretary, Greece/United States Atlantic Rate Agreement, % Prudential Lines, Inc., 1 Whitehall Street, New York, N.Y. 10004.

Agreement 9238-3, between the member lines of the Greece/United States Atlantic Rate Agreement, amends Article 2 of the basic agreement, which presently provides for the appointment of a Secretary to act for a period of 3 months, to provide for the appointment of a Secretary to act for such period of time as the membership designates.

Dated: May 1, 1967.

By order of the Federal Maritime Commission.

THOMAS LIST,
Secretary.

[F.R. Doc. 67-4948; Filed, May 3, 1967;
8:45 a.m.]

TURKEY/UNITED STATES ATLANTIC RATE AGREEMENT

Notice of Agreement Filed for Approval

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1321 H Street NW., Room 609; or may inspect agreements at the offices of the District Managers, New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments with reference to an agreement including a request for hearing, if desired, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. A copy of any such statement should also be forwarded to the party filing the agreement as (indicated hereinafter) and the comments should indicate that this has been done.

Notice of agreement filed for approval by:

Mr. P. A. Taormina, Secretary, Turkey/United States Atlantic Rate Agreement, % Prudential Lines, Inc., 1 Whitehall Street, New York, N.Y. 10004.

Agreement 9239-3, between the member lines of the Turkey/United States Atlantic Rate Agreement, amends Article 2 of the basic agreement, which presently provides for the appointment of a Secretary to act for a period of 3 months, to provide for the appointment of a Secretary to act for such period of time as the membership designates.

Dated: May 1, 1967.

By order of the Federal Maritime Commission.

THOMAS LIST,
Secretary.

[F.R. Doc. 67-4949; Filed, May 3, 1967;
8:45 a.m.]

FEDERAL POWER COMMISSION

[Docket No. RI 67-359]

PHILLIPS PETROLEUM CO.

Order Providing for Hearing on and Suspension of Proposed Change in Rate, and Allowing Rate Change as to Certain Sales To Become Effective Subject to Refund

APRIL 26, 1967.

On March 27, 1967, Phillips Petroleum Co. (Operator) (Phillips)¹ tendered for filing a proposed change in its presently effective rate schedule for sales of natural gas subject to the jurisdiction of the Commission. The proposed change, which constitutes an increased rate and charge, is designated as follows:

¹ Address is Bartlesville, Okla. 74003, Attention: Mr. Dan L. Mayer.

Docket No.	Respondent	Rate Sched. No.	Supp. No.	Purchaser and Producing Area	Amount of Annual Increase	Date Filing Tendered	Effective Date Unless Suspended	Date Suspended Until	\$ per Mcf		Rate in Effect Subject to Refund in Docket No.
									Rate in Effect	Proposed Increased Rate	
R167-359...	Phillips Petroleum Co. (Operator), Bartlesville, Okla. 74003, Attention: Mr. Dan L. Mayer.	18	2 46	Northern Natural Gas Co. (Andrews Plant, Andrews County, Tex.) (R.R. District No. 8) (Permian Basin Area).	(7) \$178,843	3-27-67 3-27-67	* 4-27-67 * 4-27-67	* 4-28-67 * 9-27-67	* 13.0789 * 12.94	* 14.0 * 14.0	R162-541.
		18	2 47	Northern Natural Gas Co. (Spraberry and Benedum Plants, Midland and Upton Counties, Tex.) (R.R. District Nos. 8 and 7-C) (Permian Basin Area).	154,470	3-27-67	* 4-27-67	* 4-28-67 * 9-27-67	12.0725	* 14.0	

* Applicable only to residue gas delivered from Andrews Plant (sales from other plants are made under subject rate schedule).

* No volumes of residue gas derived from new gas-well gas delivered at this time.

* The stated effective date is the effective date proposed by Respondent.

* The suspension period is limited to 1 day insofar as it pertains to residue gas derived from new gas-well gas from the Andrews and Spraberry Plants.

* Redetermined rate increase.

* Pressure base is 14.65 p.s.i.a.

* Applicable to residue gas derived from new gas-well gas.

* Applicable to residue gas not derived from new gas-well gas.

* Applicable only to residue gas delivered from Spraberry and Benedum Plants (sales from other plants are made under subject rate schedule).

* Suspended for 3 months insofar as the proposed 14-cent rate pertains to residue not derived from new gas-well gas from the Andrews and Spraberry Plants and for all residue gas from Benedum Plant.

Phillips proposes for its FPC Gas Rate Schedule No. 18, a unilaterally redetermined rate increase to 14 cents per Mcf, amounting to \$333,313 annually, for sales of residue gas derived from casinghead gas and from old and new gas-well gas to Northern Natural Gas Co. (Northern Natural) from the Andrews, Spraberry, and Benedum gasoline plants in the Permian Basin Area of Texas. The proposed rate exceeds the applicable area ceiling rates determined in the related quality statements for residue gas from the subject plants which were tendered in compliance with Opinion No. 468, with the exception of those rates determined for residue gas derived from new gas-well gas from the Andrews and Spraberry plants. The applicable area rate ceilings for these latter sales are 15.07 cents per Mcf and 14.04 cents per Mcf for the Andrews and Spraberry plants, respectively.

Phillips bases the proposed increase on a contract provision which provides that effective February 8, 1967, and during the remainder of the contract term¹² the price shall be the higher of 13 cents or the "current price" determined by averaging the three highest prices (or two if there are not three) paid for comparable sales of residue gas to interstate purchasers from plants in the Permian Basin Area of West Texas and Southeast New Mexico.

In accordance with the above provision Phillips has determined the "current price" to be in excess of 14 cents per Mcf. However, to date Northern Natural has not made the redetermination provided for by the contract. Phillips states that pending the determination of the "current price" by Northern Natural, it is submitting the subject increases to minimize revenue loss resulting from failure to file for a higher rate. Phillips also states that Northern Natural does not object to the rate increase provided that, if the finally determined "current price" is less than 14 cents per Mcf, Phillips will promptly proceed to make a supplemental new filing to effectuate the

finally determined price. This Phillips agrees to do.¹³

Quality statements related to the above sales were previously accepted by Commission orders. For gas delivered from the Andrews plant, the current effective rate is 12.94 cents per Mcf for residue gas derived from old gas-well gas and casinghead gas and 13.0789 cents per Mcf for residue gas derived from new gas-well gas, whereas the applicable area ceiling prices (base prices adjusted for quality deficiencies) for the same types of gas are 12.94 cents per Mcf and 15.07 cents per Mcf, respectively. For the Spraberry and Benedum plants, which deliver the same types of gas as the Andrews plant, the current effective rate is 12.0725 cents per Mcf. The applicable area ceiling prices for the Spraberry plant are 14.04 cents per Mcf for residue gas derived from new gas-well gas and 12 cents per Mcf for residue gas derived from old gas-well gas and casinghead gas, whereas for the Benedum plant, the applicable area ceiling prices are 13.65 cents per Mcf and 11.65 cents per Mcf, respectively.

Under the circumstances, we conclude that in order to assure that Phillips will refund, with 7-percent interest, all amounts collected in excess of the contractually authorized redetermined price in the event it is determined that there is no contractual justification for Phillips' redetermined price, the increased rate of 14 cents per Mcf should be suspended. In this connection, we believe that the 14 cents per Mcf rate should be suspended for one day from April 27, 1967, the proposed effective date, insofar as it pertains to residue gas derived from new gas-well gas from the Andrews and Spraberry plants, and for 5 months from April 27, 1967, insofar as it pertains to residue gas not derived from new gas-well gas from the Andrews and Spraberry plants and to all residue gas from the Benedum plant. The one day suspension is applicable to those sales where the rate does not exceed the just and reasonable ceiling determined in Permian, while the 5-month suspension applies where the

¹² Phillips gives no indication as to what sales it has selected for purposes of price redetermination but it does believe that there are sales being made in Permian Basin area having prices which would support a price higher than that proposed herein.

rate exceeds the ceiling. The hearing provided for herein with respect to the residue gas derived from new gas-well gas from the Andrews and Spraberry plants shall involve only the contractual question, while the hearing with respect to sales of residue gas not derived from new gas-well gas from the Andrews and Spraberry plants and for all residue gas from the Benedum plant will pertain to both the contractual question and the justness and reasonableness of the proposed rate.

Except for the stay of the moratorium in Opinion No. 468, Phillips' rate filing, insofar as it pertains to residue not derived from new gas-well gas from the Andrews and Spraberry plants and for all residue gas from the Benedum plant, would be rejectable because the proposed rate is in excess of the applicable area ceiling determined in Opinion No. 468. If the moratorium is ultimately upheld upon judicial review, Phillips' rate increase insofar as it applies to such sales will be rejected ab initio.

The proposed changed rate and charge may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the contractual basis for Phillips' rate filings, as well as the just and reasonableness of the proposed rate insofar as it pertains to residue gas not derived from new gas-well gas from the Andrews and Spraberry plants and to all residue gas from the Benedum plant, and that Supplement Nos. 46 and 47 to Phillips' FPC Gas Rate Schedule No. 18 be suspended and the use thereof deferred as herein-after ordered.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR Ch. I), a public hearing shall be held upon a date to be fixed by notice from the Secretary concerning the contractual basis for Phillips' rate filings with respect to the residue gas derived from new gas-well gas from Andrews and Spraberry plants, and concerning

¹³ This is a 20-year contract dated Feb. 8, 1952. The contract has no time element within which the parties are to establish a redetermined price.

both the contractual basis and the justness and reasonableness of Phillips' rate filings insofar as they pertain to residue gas not derived from new gas-well gas from the Andrews and Spraberry plants and to all residue gas from the Benedum plant, as contained in Supplement Nos. 46 and 47 to Phillips' FPC Gas Rate Schedule No. 18.

(B) Pending a hearing and decision thereon, the above-designated rate supplements are hereby suspended and the use thereof deferred until April 28, 1967, insofar as they pertain to residue gas derived from new gas-well gas from the Andrews and Spraberry plants, and until September 27, 1967, insofar as they pertain to residue gas not derived from new gas-well gas from the Andrews and Spraberry plants and to all residue gas from the Benedum plant, and thereafter until such further time as they are made effective in the manner prescribed by the Natural Gas Act: *Provided, however*, That the supplements to the rate schedule file by Phillips (insofar as they pertain to residue gas derived from new gas-well gas from the Andrews and Spraberry plants) shall become effective subject to refund on April 28, 1967, if within 20 days from the date of the issuance of this order, Phillips shall execute and file under Docket No. RI67-359, with the Secretary of the Commission, its agreement and undertaking to comply with the refunding and reporting procedure required by the Natural Gas Act and section 154.102 of the regulations thereunder, accompanied by a certificate showing service of a copy thereof upon Northern Natural Gas Co. Unless Phillips is advised to the contrary within 15 days from the filing of its agreement and undertaking, such agreement and undertaking shall be deemed to have been accepted.

(C) Neither the supplements hereby suspended, nor the rate schedule sought to be altered thereby, shall be changed until this proceeding has been disposed of or until the periods of suspension have expired, unless otherwise ordered by the Commission.

(D) Notices of intervention or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 and 1.37(f)) on or before June 12, 1967.

By the Commission.

JOSEPH H. GUTRIE,
Secretary.

[P.R. Doc. 67-4913; Filed, May 3, 1967;
8:45 a.m.]

ATOMIC ENERGY COMMISSION

[Docket Nos. 50-250, 50-251]

FLORIDA POWER & LIGHT CO.

Notice of Issuance of Provisional Construction Permits

Notice is hereby given that, pursuant to the initial decision of the Atomic Safety and Licensing Board, dated

April 26, 1967, the Director of the Division of Reactor Licensing has issued Provisional Construction Permits Nos. CPPR-27 and CPPR-28 to Florida Power & Light Co. for the construction of two pressurized water nuclear reactors designated respectively as Turkey Point Units 3 and 4, to be located at Florida Power & Light Co.'s Turkey Point site, about 25 miles south of Miami, in Dade County, Fla.

A copy of the initial decision is on file in the Commission's Public Document Room, 1717 H Street NW., Washington, D.C.

Dated at Bethesda, Md., this 27th day of April 1967.

For the Atomic Energy Commission.

PETER A. MORRIS,
Director,
Division of Reactor Licensing.

[P.R. Doc. 67-4955; Filed, May 3, 1967;
8:45 a.m.]

SECURITIES AND EXCHANGE COMMISSION

[File No. 1-3886]

AMERICAN STEEL & PUMP CORP.

Order Suspending Trading

APRIL 28, 1967.

The 4 percent Income Bonds, Series A due December 1, 1994, listed and registered on the American Stock Exchange pursuant to provisions of the Securities Exchange Act of 1934 and the common stock, 47 cents par value of American Steel & Pump Corp., being traded otherwise than on a national securities exchange; and

It appearing to the Securities and Exchange Commission that the summary suspension of trading in such securities on such Exchange and otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, Pursuant to sections 15 (c) (5) and 19(a) (4) of the Securities Exchange Act of 1934, that trading in such securities on the American Stock Exchange and otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period May 1, 1967, through May 10, 1967, both dates inclusive.

By the Commission.

[SEAL] ORVAL L. DuBOIS,
Secretary.

[P.R. Doc. 67-4968; Filed, May 3, 1967;
8:46 a.m.]

[File No. 7-2687]

AMERICAN SUGAR CO.

Notice of Application for Unlisted Trading Privileges and of Opportunity for Hearing

APRIL 28, 1967.

The above-named national securities exchange has filed an application with

the Securities and Exchange Commission pursuant to Section 12(f) (1) (B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the common stock of the following company, which security is listed and registered on one or more other national securities exchange:

File
No.

American Sugar Co.----- 7-2687

Upon receipt of a request, on or before May 15, 1967, from any interested person, the Commission will determine whether the application shall be set down for hearing. Any such request should state briefly the nature of the interest of the person making the request and the position he proposes to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing on the said application by means of a letter addressed to the Secretary, Securities and Exchange Commission, Washington 25, D.C., not later than the date specified. If no one requests a hearing, this application will be determined by order of the Commission on the basis of the facts stated therein and other information contained in the official files of the Commission pertaining thereto.

For the Commission (pursuant to delegated authority).

[SEAL] ORVAL L. DuBOIS,
Secretary.

[P.R. Doc. 67-4969; Filed, May 3, 1967;
8:46 a.m.]

[812-2097]

BROAD STREET INVESTING CORP.

Notice of Filing of Application

APRIL 28, 1967.

Notice is hereby given that Broad Street Investing Corp. ("applicant"), 65 Broadway, New York, N.Y. 10006, a Maryland corporation registered under the Investment Company Act of 1940 ("Act") as an open-end diversified management investment company, has filed an application pursuant to section 6(c) of the Act requesting an order of the Commission exempting from the provisions of section 22(d) of the Act a transaction in which applicant's redeemable securities will be issued at a price other than the current public offering price described in the prospectus in exchange for the assets of E. H. Holding Corp. ("EHH"). All interested persons are referred to the application on file with the Commission for a statement of the applicant's representations which are summarized below.

EHH, a New York corporation, is an investment company all of whose outstanding stock is owned of record and beneficially by four individuals and is exempt from registration under the Act by reason of the provisions of section 3 (c) (1) thereof. EHH was incorporated in 1921 and prior to 1966 was engaged in the contract builders hardware business. In that year it sold substantially all its business and assets and since such sale it has been engaged primarily in the

business of investing and reinvesting its funds. Pursuant to an agreement between applicant and EHH substantially all of the cash and securities owned by EHH, with a value of approximately \$436,205 as of February 27, 1967, will be transferred to applicant in exchange for shares of its capital stock.

The number of shares of applicant to be issued to EHH is to be determined by dividing the aggregate market value (with certain adjustments set forth in the application) of the assets of EHH to be transferred to applicant by the net asset value per share of applicant, both to be determined as of the valuation time, as defined in the agreement. If the valuation under the agreement had taken place on February 27, 1967, EHH would have received 28,749 shares of applicant's stock.

When received by EHH, the shares of applicant are to be distributed to the EHH stockholders on the liquidation of EHH. Applicant has been advised by the management of EHH that the stockholders of EHH do not have any present intention of redeeming or otherwise transferring the shares of applicant to be received on such liquidation following the sale of assets transaction.

No affiliation exists between EHH or its officers, directors, or stockholders and applicant, its officers or directors, and the agreement was negotiated at arm's length by the two companies. The Board of Directors of applicant approved the agreement as being in the best interests of its shareholders, taking all relevant considerations into account.

Section 22(d) of the Act provides that registered open-end investment companies may sell their shares only at the current public offering price as described in the prospectus. Section 6(c) permits the Commission, upon application, to exempt such a transaction if it finds that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicant contends that the proposed offering of its stock will comply with the provisions of the Act, other than section 22(d) and submits that the granting of the application would be in accordance with established practice of the Commission, is necessary and appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than May 19, 1967, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if

the person being served is located more than 500 miles from the point of mailing) upon applicant. Proof of such service (by affidavit or in case of an attorney at law by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in said application, unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission (pursuant to delegated authority).

[SEAL]

ORVAL L. DuBois,
Secretary.

[P.R. Doc. 67-4970; Filed, May 3, 1967;
8:46 a.m.]

[812-2092]

PURITAN FUND, INC.

Notice of Filing of an Application

APRIL 28, 1967.

Notice is hereby given that The Puritan Fund, Inc. ("Puritan"), 31 Milk Street, Boston, Mass., a management open-end, diversified investment company, registered under the Investment Company Act of 1940 ("Act") has filed an application pursuant to section 6(c) requesting an order of the Commission exempting from the provisions of section 22(d) of the Act the proposed issuance and delivery of its redeemable securities to Chautauqua Cabinet Co. ("Chautauqua"), a New York corporation, in exchange for substantially all the assets of Chautauqua, pursuant to a certain Agreement and Plan of Reorganization ("Plan"). The Plan provides for the exchange of the securities at a price other than at the public offering price described in the prospectus. All interested persons are referred to the application filed with the Commission for a statement of the representations which are summarized below.

Chautauqua's securities are held by six individuals and by five trusts and substantially all of its assets consist of securities and cash. Chautauqua is not making and does not intend to make a public distribution of its stock and therefore is exempt from registration under the Act by reason of the provisions of section 3(c)(1) of the Act. There is no connection between Puritan and Chautauqua and no officer or shareholder of Chautauqua is an affiliated person of Puritan or its investment adviser.

Pursuant to the Plan substantially all the assets of Chautauqua will be transferred to Puritan in exchange for its shares which will be distributed to Chautauqua's shareholders upon liquidation.

Chautauqua and its stockholders have represented that they have no present intention of redeeming the Puritan shares which they will receive. The application states that the Plan was negotiated at arm's length and has been approved by the board of directors of Puritan. The number of shares of Puritan to be delivered to Chautauqua will be determined on the basis of the net asset value of Puritan's shares and the value of Chautauqua's assets to be transferred, subject to certain adjustments set forth in the agreement, as of the close of business on the New York Stock Exchange on the day preceding the date of the closing. If the valuation under the agreement had taken place on January 31, 1967, Chautauqua would have received 279,627.26 shares of Puritan.

Section 22(d) of the Act provides that registered open-end investment companies may sell their shares only at the current public offering price as described in its prospectus. Section 6(c) permits the Commission, upon application, to exempt a transaction if it finds that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Puritan represents that the consummation of this transaction will be beneficial to its shareholders in that certain of its expenses will be spread over a larger number of shares and it will be able to acquire a large block of securities without paying brokerage commissions or affecting the market in such securities.

Notice is further given that any interested person may, not later than May 19, 1967, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon Puritan at the address stated above. Proof of such service (by affidavit or in case of an attorney at law by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in said application unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter including the date of the hearing (if ordered) and any postponements thereof.

For the Commission (pursuant to delegated authority).

[SEAL] ORVAL L. DuBois,
Secretary.

[F.R. Doc. 67-4971; Filed, May 3, 1967;
8:46 a.m.]

RAND DEVELOPMENT CORP.

Order Suspending Trading

APRIL 28, 1967.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, 5 cents par value, of Rand Development Corp., Cleveland, Ohio, and the Class B Common Stock, 5 cents par value, being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, Pursuant to section 15(c) (5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period April 30, 1967, through May 9, 1967, both dates inclusive.

By the Commission.

[SEAL] ORVAL L. DuBois,
Secretary.

[F.R. Doc. 67-4972; Filed, May 3, 1967;
8:46 a.m.]

[File No. 81-77]

TEXAS AND PACIFIC RAILWAY CO.

Notice of Application and Opportunity for Hearing

APRIL 27, 1967.

Notice is hereby given that The Texas & Pacific Railway Co. ("T&P"), 210 North 13th Street, St. Louis, Mo. 63103, has filed an application pursuant to section 12(h) of the Securities Exchange Act of 1934, as amended ("Act") for an order exempting the Company from the registration requirements of section 12 (g) of the Act.

Section 12(g) of the Act requires the registration of the equity securities of every issuer which is engaged in or in a business affecting interstate commerce, or whose securities are traded by use of the mails or any means of instrumentality of interstate commerce and, on the last day of its fiscal year, has total assets exceeding \$1 million, and a class of equity security held of record initially by 750 or more persons, and after July 1, 1966, by 500 or more persons.

Section 12(h) empowers the Commission to exempt, in whole or in part, any issuer or class of issuers from the registration, periodic reporting and proxy solicitation provisions and to grant exemptions from the insider reporting and trading provisions of the Act if the Commission finds, by reason of the number of public investors, amount of trading interest in the securities, the nature and extent of the activities of the issuer, or otherwise, that such exemption is not

inconsistent with the public interest or the protection of investors.

The company's application states, in part:

The T&P is a common carrier by railroad subject to Part I of the Interstate Commerce Act and operates in the State of Arkansas, Texas, Oklahoma, and Louisiana. It has 1 million authorized shares of common stock, par value \$100 each. No other class of stock is issued or outstanding. There are 489,145 of such common shares issued, 489,058 of the same being outstanding and 87 shares being in the company's treasury. As of this 4th day of April 1967, 466,790 of such T&P shares are owned of record by the Missouri Pacific Railroad Co. and 22,268 are owned by others.

The T&P has total assets exceeding \$1 million, and as of December 31, 1966 (the last day of its last fiscal year) those shares were held of record by 506 stockholders. On this basis the T&P would be required by the provisions of section 12(g) of the Act to file a registration statement covering all of its shares of common stock.

Since the end of its last fiscal year, the number of stockholders of record holding such T&P shares has been reduced so that as of March 21, 1967, the latest available date, there were 283 stockholders of record. It appears, therefore, that were T&P to file by April 30, 1967, a registration statement, that then it would thereafter be entitled, under the provisions of section 12(g) (4) of the Act, to seek a termination of registration by filing a certification with the Commission that the number of holders of record of such security has been reduced to less than 300 persons.

In view of the foregoing factual situation, T&P submits that if the Commission would exercise its discretion under section 12(h) of the Act to exempt such stock from registration under section 12(g) that both the company and the Commission would be spared needless time and effort.

Notice is further given that any interested person may, not later than May 15, 1967, submit to the Commission in writing his views or any additional facts bearing upon this application or the desirability of a hearing thereon. Any such communication or request should be addressed: Secretary, Securities and Exchange Commission, 500 North Capitol Street NW., Washington, D.C. 20549, and should state briefly the nature of the interest of the person submitting such information or requesting a hearing, the reasons for such request, and the issues of fact and law raised by the application which he desires to controvert. At any time after said date, an order granting the application may be issued by the Commission unless an order for hearing upon said application be issued upon request or upon the Commission's own motion.

By the Commission.

[SEAL] ORVAL L. DuBois,
Secretary.

[F.R. Doc. 67-4973; Filed, May 3, 1967;
8:46 a.m.]

INTERSTATE COMMERCE COMMISSION

[Notice 1058]

MOTOR CARRIER, BROKER, WATER CARRIER, AND FREIGHT FORWARDER APPLICATIONS

APRIL 28, 1967.

The following applications are governed by Special Rule 1.247¹ of the Commission's general rules of practice (49 CFR, as amended), published in the FEDERAL REGISTER issue of April 20, 1966, effective May 20, 1966. These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after date of notice of filing of the application is published in the FEDERAL REGISTER. Failure seasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest under these rules should comply with § 1.247(d) (3) of the rules of practice which require that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding (including a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describing in detail the method—whether by joinder, interline, or other means—by which protestant would use such authority to provide all or part of the service proposed), and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. Protests not in reasonable compliance with the requirements of the rules may be rejected. The original and one (1) copy of the protest shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or applicant if no representative is named. If the protest includes a request for oral hearing, such requests shall meet the requirements of § 1.247 (d) (4) of the special rule, and shall include the certification required therein.

Section 1.247(f) of the Commission's rules of practice further provides that each applicant shall, if protests to its application have been filed, and within 60 days of the date of this publication, notify the Commission in writing (1) that it is ready to proceed and prosecute the application, or (2) that it wishes to withdraw the application, failure in which the application will be dismissed by the Commission.

Further processing steps (whether modified procedure, oral hearing, or other procedures) will be determined generally in accordance with the Commission's general policy statement concerning motor carrier licensing procedures, published in the FEDERAL REGISTER issue of May 3, 1966. This assignment

¹ Copies of Special Rule 1.247 (as amended) can be obtained by writing to the Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

will be by Commission order which will be served on each party of record.

The publications hereinafter set forth reflect the scope of the applications as filed by applicants, and may include descriptions, restrictions, or limitations which are not in a form acceptable to the Commission. Authority which ultimately may be granted as a result of the applications here noticed will not necessarily reflect the phraseology set forth in the application as filed, but also will eliminate any restrictions which are not acceptable to the Commission.

No. MC 2165 (Sub-No. 19), filed April 17, 1967. Applicant: LANGDON TRUCK LINES, INC., 128 Glenwood Avenue, Medina, N.Y. 14103. Applicant's representative: Raymond A. Richards, 23 West Main Street, Webster, N.Y. 14580. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Fertilizer, fertilizer materials, insecticides and pesticides, and related advertising materials* when moving at the same time, from the facilities of Armour Agricultural Chemical Co. (Armour & Co.) at or near Windsor, N.J., to points in that part of New York bounded by a line beginning at the Niagara River, just north of Niagara Falls, N.Y., and extending along New York Highway 31 to Lockport, N.Y., thence along New York Highway 93 to junction New York Highway 5 just south of Akron, N.Y., thence along New York Highway 5 to Batavia, N.Y., thence along New York Highway 33 to Rochester, N.Y., thence along city streets (formerly shown as New York Highway 2) to Lake Ontario, thence along the shore of Lake Ontario to the Niagara River, and thence along the Niagara River to point of beginning, including points on the indicated portions of the highways specified. If a hearing is deemed necessary, applicant requests it be held at Rochester or Buffalo, N.Y.

No. MC 3009 (Sub-No. 77), filed April 17, 1967. Applicant: WEST BROTHERS, INC., 706 East Pine Street, Hattiesburg, Miss. 39401. Applicant's representative: W. N. Innis (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving Royal City, Ala. (the plantsite and warehouses of United States Rubber Co., near Opelika, Ala.), as an off-route point in connection with applicant's presently authorized regular route authority. Note: If a hearing is deemed necessary, applicant requests it be held at Montgomery, Ala., or Jackson, Miss.

No. MC 4761 (Sub-No. 22), filed April 19, 1967. Applicant: LOCK CITY TRANSPORTATION COMPANY, a corporation, 327 Sixth Avenue, Menominee, Mich. Applicant's representative: Edward Solle, Executive Building, Suite 100, 4513 Vernon Boulevard, Madison, Wis. 53705. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting:

Fish oils, fish protein meals, fish flours, and blends thereof, in bulk, from Menominee, Mich., to points in Illinois, Indiana, Iowa, Kentucky, Michigan, Minnesota, Missouri, New Jersey, New York, North Carolina, Ohio, Pennsylvania, South Dakota, Tennessee, Virginia, West Virginia, and Wisconsin. Note: If a hearing is deemed necessary, applicant requests it be held at Milwaukee, Wis., or Chicago, Ill.

No. MC 10761 (Sub-No. 210), filed April 17, 1967. Applicant: TRANSAMERICAN FREIGHT LINES, INC., 1700 North Waterman Avenue, Detroit, Mich. 48209. Applicant's representative: A. Alvis Layne, Pennsylvania Building, Washington, D.C. 20004. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Iron and steel articles and grey iron castings*, in the rough, between Sinking Springs, Pa., on the one hand, and, on the other, Fremont, Ind., Edgerton and Kenton, Ohio, and Litchfield, Mich. Note: Applicant states it is presently authorized to serve Sinking Springs, Pa., in MC-10761, Sub 100. If a hearing is deemed necessary, applicant requests it be held at Philadelphia, Pa.

No. MC 20824 (Sub-No. 24), filed April 17, 1967. Applicant: COMMERCIAL MOTOR FREIGHT, INC., OF INDIANA, 111 East McCarty Street, Indianapolis, Ind. 46225. Applicant's representative: Ferdinand Born, 601 Chamber of Commerce Building, Indianapolis, Ind. 46204. Authority sought to operate as a common carrier, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between Rochester, and Warsaw, Ind., as follows: From Rochester, Ind., over Indiana Highway 14 to its junction with Indiana Highway 15, thence over Indiana Highway 15 to Warsaw, Ind., and return over the same route serving the intermediate point of Akron, Ind., and (2) between Rochester and Wabash, Ind., as follows: From Rochester, Ind., over Indiana Highway 14 to its junction with Indiana Highway 114, thence over Indiana Highway 114 to its junction with Indiana Highway 15 thence over Indiana Highway 15 to Wabash, Ind., and return over the same route, serving the intermediate point of Akron, Ind. Note: If a hearing is deemed necessary, applicant requests it be held at Indianapolis, Ind., or Chicago, Ill.

No. MC 43169 (Sub-No. 8), filed April 17, 1967. Applicant: IRVING E. OAK-LEAF, 117 Maple Street, Lyons, N.Y. 14489. Applicant's representative: Raymond A. Richards, 23 West Main Street, Webster, N.Y. 14580. Authority sought to operate as a common carrier, by motor vehicle, over irregular route, transporting: *Fertilizer, fertilizer materials, insecticides and pesticides, and related advertising materials* when moving at the same time, from the facilities of Armour Agricultural Chemical Co. (Armour & Co.) at or near Windsor, N.J., to points in Cayuga, Genesee, Niagara, Orleans, Schuyler, Seneca, Steuben, and Yates

Counties, N.Y., and Lyons, N.Y. Note: If a hearing is deemed necessary, applicant requests it be held at Rochester or Buffalo, N.Y.

No. MC 50069 (Sub-No. 377), filed April 17, 1967. Applicant: REFINERS TRANSPORT & TERMINAL CORPORATION, 930 North York Road, Hinsdale, Ill. 60521. Applicant's representative: Robert H. Levy, 29 South La Salle Street, Chicago, Ill. 60603. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Dry phosphates*, in bulk, in compartmentalized tank vehicles, from the plantsite and or storage facilities of the Monsanto Co., at or near Trenton, Mich., to points in Ohio. Note: Common control and dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 59150 (Sub-No. 33), filed April 14, 1967. Applicant: PLOOF TRANSFER COMPANY, INC., 1901 Hill Street, Box 47, Station G, Jacksonville, Fla. 32202. Applicant's representative: Martin Sack, Jr., 710 Atlantic Bank Building, 121 West Forsyth Street, Jacksonville, Fla. 32202. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Telephone equipment, materials, and supplies* having a prior or subsequent movement in interstate commerce, between Jacksonville, Fla., and points in Duval, Nassau, St. Johns, Baker, and Clay Counties, Fla. Note: If a hearing is deemed necessary, applicant requests it be held at Jacksonville, Fla.

No. MC 59800 (Sub-No. 20), filed April 13, 1967. Applicant: WEICKER TRANSFER & STORAGE COMPANY, a corporation, 2900 Brighton Boulevard, Denver, Colo. Applicant's representative: Joseph F. Nigro, 400 Denver Hilton Office Building, 1515 Cleveland Place, Denver, Colo. 80204. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Cement and cement products*, from Florence, Colo., to points in New Mexico. Note: In MC 128728 there is pending an application for contract authority in the name of Welcker Transfer & Storage Co., Inc., therefore, dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Denver, Colo.

No. MC 64932 (Sub-No. 435), filed April 17, 1967. Applicant: ROGERS CARTAGE CO., a corporation, 1439 West 103d Street, Chicago, Ill. 60643. Applicant's representative: Carl Steiner, 39 South La Salle Street, Chicago, Ill. 60603. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Muriatic acid*, in bulk, in tank vehicles, from the plantsite of the Cabot Corp. at or near Tuscola, Ill., to points in Indiana, Iowa, Kansas, Kentucky, Michigan, Missouri, and Wisconsin. Note: If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or Detroit, Mich.

No. MC 64994 (Sub-No. 91), filed April 19, 1967. Applicant: HENNIS FREIGHT LINES, INC., Post Office Box 612, Winston-Salem, N.C. 27102. Applicant's representative: Frank C. Philips

(same address as applicant), and James E. Wilson, 1735 K Street NW., Washington, D.C. 20006. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Cellulose film*, from the plantsite of American Viscose Divisions FMC Corp. at Fredericksburg, Va., to points in the Chicago, Ill., commercial zone, and Louisville, Ky. Note: If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 73165 (Sub-No. 234), filed April 17, 1967. Applicant: EAGLE MOTOR LINES, INC., Post Office Box 1348, Birmingham, Ala. 35201. Applicant's representative: Robert M. Pearce, Central Building, 1033 State Street, Bowling Green, Ky. 42101. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Glass containers, caps, covers, stoppers, and tops for glass containers*, from New Orleans, La., to Mobile, Ala. Note: If a hearing is deemed necessary, applicant requests it be held at Birmingham, Ala.

No. MC 72442 (Sub-No. 19), filed April 7, 1967. Applicant: AKERS MOTOR LINES, INCORPORATED, Post Office Box 579, Gastonia, N.C. 28052. Applicant's representative: Donald E. Cross, Munsey Building, Washington, D.C., and L. O. Boyles (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over regular routes, transporting: *General commodities*, except those of unusual value, classes A and B explosives, tobacco, liquor, commodities in bulk, commodities requiring special equipment, and household goods as defined by the Commission, (1) between Junction Georgia Highway 82 and site of Akers Motor Lines, Inc., terminal at or near Dry Pond, Ga., from Junction Georgia Highway 82 and unnumbered highway over unnumbered highway to site of Akers Motor Lines terminal and return over the same route, serving junction point for purpose of joinder only; (2) between Jefferson, and Dry Pond, Ga., over Georgia Highway 82 serving Jefferson and Dry Pond for purpose of joinder only; (3) between Talmo, and Dry Pond, Ga., from Talmo over Georgia Highway 346 to Junction Georgia Highway 82, thence over Georgia Highway 82 to Dry Pond and return over the same route, serving Talmo and Dry Pond for purpose of joinder only; (4) between Maysville, and Dry Pond, Ga., over Georgia Highway 82, serving Maysville and Dry Pond for purpose of joinder only; (5) between Maysville, and Junction U.S. Highway 23 and Georgia Highway 52, from Maysville over Georgia Highway 52 to Junction U.S. Highway 23 and return over the same route, serving Maysville and Junction U.S. Highway 23 and Georgia Highway 52 for purpose of joinder only; (6) between Commerce and Maysville, Ga., over Georgia Highway 98, serving Commerce and Maysville for purpose of joinder only.

(7) Between Commerce, and Athens, Ga., over U.S. Highway 441 serving Commerce and Athens for the purpose

of joinder only; (8) between Commerce, and Danielsville, Ga., over Georgia Highway 98, serving Commerce and Danielsville for purpose of joinder only; (9) between Danielsville, and Comer, Ga., over Georgia Highway 98 serving Danielsville and Comer for purpose of joinder only; (10) between Baldwin, and Commerce, Ga., over U.S. Highway 441 serving Baldwin, Homer, and Commerce for purpose of joinder only; (11) between Lula, and Homer, Ga., over Georgia Highway 51 serving Lula and Homer for purpose of joinder only; (12) between Homer, and Junction Georgia Highways 51 and 59, from Homer over Georgia Highway 51 to Junction Georgia Highway 59 and return over the same route, serving Homer and Junction Georgia Highways 51 and 59 for purpose of joinder only; (13) between Junction Georgia Highways 51 and 59 and Franklin Springs, Ga., from Junction Georgia Highways 51 and 59 over Georgia Highway 51 to Franklin Springs and return over the same route, serving Junction Georgia Highways 51 and 59 and Franklin Springs for purpose of joinder only; (14) between Homer, and Maysville, Ga., over Georgia Highway 98 serving Homer and Maysville for purpose of joinder only; (15) between Boydville, and Junction Georgia Highways 184 and 51, from Boydville over Georgia Highway 184 to Junction Georgia Highway 51 and return over the same route, serving Boydville and Junction Georgia Highways 184 and 51 for purpose of joinder only; (16) between Gainesville, and Jefferson, Ga., over U.S. Highway 129 serving Gainesville, Talmo and Jefferson for purpose of joinder only; (17) between Jefferson and Athens, Ga., over U.S. Highway 129 via Arcade, Ga., serving Jefferson, Arcade, and Athens for purpose of joinder only.

(18) Between Arcade, and Statham, Ga., from Arcade over Georgia Highway 82 to Junction Georgia Highway 211, thence over Georgia Highway 211 to Statham and return over the same route, serving Arcade and Statham for purpose of joinder only; (19) between Oakwood, and Winder, Ga., over Georgia Highway 53 serving Oakwood and Winder for purpose of joinder only; (20) between Russell, Ga., and Junction Georgia Highway 53 and U.S. Highway 78, from Russell over Georgia Highway 53 to Junction U.S. Highway 78 and return over the same route, serving Russell and Junction Georgia Highway 53 and U.S. Highway 78 for purpose of joinder only; (21) between Watkinsville, and Junction Georgia Highway 53 and U.S. Highway 78, from Watkinsville over Georgia Highway 53 to Junction U.S. Highway 78 and return over the same route, serving Watkinsville and Junction Georgia Highway 53 and U.S. Highway 78 for purpose of joinder only; (22) between Toccoa, and Lavonia, Ga., over Georgia Highway 17 serving Toccoa and Lavonia for purpose of joinder only; (23) between Lavonia, and Hartwell, Ga., over Georgia Highway 77 serving Lavonia and Hartwell for purpose of joinder only; (24) between Lavonia, and Royston, Ga., over Georgia Highway 17 serving Lavonia and Roys-

ton for purpose of joinder only; (25) between Royston, and Elberton, Ga., over Georgia Highway 17 serving Royston and Elberton for purpose of joinder only, and return over the same routes in (1) through (25) above, as alternate routes for operating conveniences only in connection with applicants authorized regular route operations, serving no intermediate points other than those specified for joinder purposes only. Note: If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., Atlanta, Ga., or Charlotte, N.C.

No. MC 74846 (Sub-No. 59), filed April 16, 1967. Applicant: LEWIS G. JOHNSON, INC., Greigg Street, Port Gibson, N.Y. 14537. Applicant's representative: Raymond A. Richards, 23 West Main Street, Webster, N.Y. 14580. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Fertilizer, fertilizer materials, insecticides and pesticides, and related advertising materials* when moving at the same time, from the facilities of Armour Agricultural Chemical Co. (Armour & Co.) located at or near Windsor, N.J., to points in Cayuga, Cortland, Erie, Genesee, Livingston, Monroe, Niagara, Onondaga, Ontario, Orleans, Oswego, Seneca, Steuben, Tompkins, Wayne, Wyoming, and Yates Counties, N.Y. Note: If a hearing is deemed necessary, applicant requests it be held at Rochester or Buffalo, N.Y.

No. MC 82841 (Sub-No. 29), filed April 18, 1967. Applicant: R. D. TRANSPORTER, INC., 801 Livestock Exchange Building, Omaha, Nebr. Applicant's representative: Donald L. Stern, 630 City National Bank, Omaha, Nebr. 68102. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) *Scrapers, earth movers, agricultural implements, and agricultural machinery*, from Columbus, Nebr., to points in Alabama, Arizona, Arkansas, California, Colorado, Florida, Georgia, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Montana, Nevada, New Mexico, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, South Carolina, South Dakota, Tennessee, Texas, Utah, Virginia, Washington, West Virginia, Wisconsin, and Wyoming, and returned, damaged or rejected shipments on return, and (2) *raw materials and component parts* used in the manufacture of the items specified in (1) above, from St. Louis, Mo., Granite City and Carlinville, Ill., and St. Paul, Minn., to Columbus, Nebr. Note: If a hearing is deemed necessary, applicant requests it be held at Omaha, Nebr., or Chicago, Ill.

No. MC 83539 (Sub-No. 211), filed April 19, 1967. Applicant: C & H TRANSPORTATION CO., INC., 1935 West Commerce Street, Dallas, Tex. 75222. Applicant's representative: W. T. Brunson, 419 Northwest Sixth Street, Oklahoma City, Okla. 73102. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Iron and steel, and iron, and steel articles*, from points in Davidson and Robertson Counties, Tenn., to

points in Alabama, Arkansas, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Kentucky, Louisiana, Maryland, Massachusetts, Michigan, Mississippi, Missouri, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Virginia, West Virginia, and the District of Columbia. **NOTE:** If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Nashville, Tenn.

No. MC 89716 (Sub-No. 41), filed April 17, 1967. Applicant: DICK JONES TRUCKING, a corporation, Post Office Box 965, Powell, Wyo. 82435. Applicant's representative: Thomas H. Cook (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) *Gypsum board, sheathing, lath, plaster and related articles, and accessories*, from Cody, Wyo., to points in Colorado, and (2) *materials and supplies* used in the manufacture and installation of items specified, from points in Colorado to Cody, Wyo. **NOTE:** If a hearing is deemed necessary, applicant requests it be held at Billings, Mont., Casper, Wyo., or Denver, Colo.

No. MC 89723 (Sub-No. 48) (Clarification), filed April 7, 1967, published *FEDERAL REGISTER*, issue of April 20, 1967, and republished as clarified this issue. Applicant: MISSOURI PACIFIC TRUCK LINES, INC., 210 North 13th Street, St. Louis, Mo. 63103. Applicant's representative: Robt. S. Davis (same address as applicant). Applicant presently holds authority in No. MC 89723 (Sub-No. 14) to conduct operations as a common carrier by motor vehicle, transporting *express matter*, moving on express receipt of Railway Express Agency, Inc., and *general commodities*, except livestock, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, over specified regular routes in the States of Arkansas, Tennessee, and Missouri, subject to certain restrictions, among which is the following: "No shipments shall be transported by said carrier as a common carrier by motor vehicle, between any of the following points, or through, or to, or from more than one of said points, with hyphenated points considered as single key points: Memphis, Tenn.; Alexandria, La.; Newport, Little Rock, North Little Rock, Fort Smith-Van Buren, Eldorado, Gurdon, and Texarkana, Ark.; Poplar Bluff, Mo., except as to shipments to St. Louis, Mo.-East St. Louis, Ill., and to and from Wynne and Newport, Ark." By this application, applicant desires the removal of Gurdon, Ark. and Texarkana, Ark.-Texas as key points, but subject to all of the remaining key point restrictions and other restrictions in said certificate. **NOTE:** The purpose of this republication is to more clearly set forth the authority requested by this application. If a hearing is deemed necessary, applicant requests it be held at Little Rock, Ark., or Texarkana, Ark.-Tex.

No. MC 94265 (Sub-No. 202), filed April 18, 1967. Applicant: BONNEY MOTOR EXPRESS, INC., Post Office Box 12388, Thomas Corner Station, Norfolk, Va. Applicant's representative: E. Stephen Heasley, 529 Transportation Building, Washington, D.C. 20006. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts and articles distributed by meat packinghouses*, as described in sections A and C of appendix I to the *Report in Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the plantsite of Oscar Mayer & Co., Inc., at or near Beardstown, Ill., to points in Connecticut, Delaware, Maine, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, and Vermont. **NOTE:** Applicant states the above proposed authority will be restricted to traffic originating at the described plantsite and destined to points in the States named above. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 95540 (Sub-No. 696), filed April 17, 1967. Applicant: WATKINS MOTOR LINES, INC., 1120 West Griffin Road, Lakeland, Fla. Applicant's representative: Alan E. Serby, 1600 First Federal Building, Atlanta, Ga. 30303. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Clay tile and related articles*, from Lakeland, Lake Wales and Tampa, Fla., to points in Texas, Oklahoma, Kansas, Nebraska, Minnesota, Iowa, Missouri, Arkansas, Louisiana, Wisconsin, and Illinois. **NOTE:** If a hearing is deemed necessary, applicant requests it be held at Tampa or Miami, Fla., or Washington, D.C.

No. MC 98289 (Sub-No. 2), filed April 19, 1967. Applicant: RITEWAY TRANSPORT, INC., 4030 East Magnolia, Post Office Box 12163, Phoenix, Ariz. 85034. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) The following iron or steel articles, in bales or bundles, weighing 2,000 pounds or more each, which require the use of special equipment: *plates, posts, angles, forms, sheets, rounds, channels, beams, ingots, piling, billets, blooms, reinforcing rods, bars, wire mesh, and pipe*, from Houston, Beaumont, Port Arthur, Corpus Christi, Galveston, Orange, Victoria, Baytown, Eagle Pass, Laredo, Brownsville, Port Isabel, Hidalgo, and Presidio, Tex., to points in Texas, Louisiana, Oklahoma, Arkansas, and New Mexico, and (2) iron or steel articles weighing 2,000 pounds or more each, requiring the use of special equipment: *sheets, beams, plates, and coils*, from Houston, Beaumont, Port Arthur, Corpus Christi, Galveston, Orange, Victoria, Baytown, Eagle Pass, Laredo, Brownsville, Port Isabel, Hidalgo, and Presidio, Tex., to points in Texas. **NOTE:** If a hearing is deemed necessary, applicant requests it be held at Houston or Dallas, Tex.

No. MC 103051 (Sub-No. 212), filed April 19, 1967. Applicant: FLEET TRANSPORT COMPANY, INC., 1000 44th Avenue North, Post Office Box 7645, Nashville, Tenn. 37209. Applicant's representative: R. J. Reynolds, Jr., 403-11 Healey Building, Atlanta, Ga. 30303. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Chemicals*, in bulk, in tank vehicles, from the plantsite or terminals of Dow Chemical Co. at or near Columbus, Ga., to points in South Carolina and Florida. **NOTE:** If a hearing is deemed necessary, applicant requests it be held at Atlanta, Ga., or Washington, D.C.

No. MC 104523 (Sub-No. 37), filed April 17, 1967. Applicant: HUSTON TRUCK LINE, INC., Friend, Nebr. Applicant's representative: James E. Ryan, 214 Sharp Building, Lincoln, Nebr. 68508. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Dry animal and poultry feeds, dry animal and poultry mineral mixtures, livestock and poultry feeders, insecticides, and premiums and advertising matters* relating to preceding products when moved in mixed shipments with such products, from Quincy, Ill., to points in Colorado, Wyoming, and Montana. **NOTE:** If a hearing is deemed necessary, applicant requests it be held at Omaha, Nebr., or Chicago, Ill.

No. MC 104523 (Sub-No. 38), filed April 17, 1967. Applicant: HUSTON TRUCK LINE, INC., Friend, Nebr. Applicant's representative: James E. Ryan, 214 Sharp Building, Lincoln, Nebr. 68508. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Dry animal and poultry feeds, and mineral mixtures, livestock, and poultry feeders, insecticides, and premiums and advertising matters* relating to preceding products when moved in mixed shipments with such products, from the site of the Moorman Manufacturing Co. plant near Columbus, Nebr., to points in Colorado, Montana, Wyoming, Kansas, and South Dakota. **NOTE:** If a hearing is deemed necessary, applicant requests it be held at Omaha, Nebr., or Chicago, Ill.

No. MC 106644 (Sub-No. 80), filed April 17, 1967. Applicant: SUPERIOR TRUCKING COMPANY, INC., 2770 Peyton Road NW, Atlanta, Ga. 30321. Applicant's representative: Guy H. Postell, 1375 Peachtree Street, NE, Suite 693, Atlanta, Ga. 30309. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Plywood and plywood coated, faced and decorated with other materials*, from the plantsite of U.S. Plywood-Champion Papers, Inc., at or near Waycross, Ga., to points in Alabama, Arkansas, Connecticut, Delaware, District of Columbia, Florida, Illinois, Indiana, Iowa, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Mississippi, Missouri, New Hampshire, New Jersey, New York, North Carolina, Ohio, Oklahoma, Pennsylvania, Rhode Island,

South Carolina, Tennessee, Texas, Vermont, Virginia, West Virginia, and Wisconsin. **NOTE:** If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 106760 (Sub-No. 77), filed April 14, 1967. Applicant: WHITEHOUSE TRUCKING, INC., 2905 Airport Highway, Toledo, Ohio 43614. Applicant's representative: Leonard A. Jaskiewicz, Madison Building, 1155 Fifteenth Street NW., Washington, D.C. 20005. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Buildings or structures complete, knocked down, or in sections, including component parts, materials and supplies, and fixtures* and when shipped with those buildings or structures, accessories used in the erection, construction and completion thereof, (1) from Tulsa and points in Tulsa County, Okla., to points in Arkansas, Colorado, Kansas, Louisiana, Missouri, Nebraska, New Mexico, and (2) from Dallas and points in Dallas and Tarrant Counties, Tex., to points in Arkansas, Florida, Kansas, Louisiana, Missouri, Nebraska, New Mexico, and Oklahoma. **NOTE:** Applicant states it would tack the proposed authority with its present authority to enable applicant to serve points in Missouri, Arkansas, Louisiana, Kansas, Texas, and New Mexico. If a hearing is deemed necessary, applicant requests it be held at Tulsa, Okla., or Dallas, Tex.

No. MC 107403 (Sub-No. 716), filed April 18, 1967. Applicant: MATLACK, INC., 10 West Baltimore Avenue, Lansdowne, Pa. 19050. Applicant's representative: C. W. Zook (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Toluene di isocyanate*, in bulk, in tank vehicles, from Moundsville, W. Va., and points within five (5) miles thereof, to points in Connecticut and Massachusetts, restricted to traffic originating at the origin point named herein and destined to the territory named herein. **NOTE:** If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 107496 (Sub-No. 560), filed April 17, 1967. Applicant: RUAN TRANSPORT CORPORATION, Keosauqua Way at Third, Post Office Box 855, Des Moines, Iowa 50304. Applicant's representative: H. L. Fabritz (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Sand and sand with additives*, in bulk, bags and containers, from Bridgman, Mich., and Troy Grove, Ill., to points in the United States (excluding Alaska and Hawaii). **NOTE:** Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or Des Moines, Iowa.

No. MC 108295 (Sub-No. 4), filed April 17, 1967. Applicant: HIGHWAY TRANSPORTATION CO., INC., 205 North Carson, St. James, Mo. 65559. Applicant's representative: Joseph R. Nacy, 117 West High Street, Post Office Box 352, Jefferson City, Mo. 65101. Authority sought to operate as a common carrier, by motor

vehicle, over irregular routes, transporting: *General commodities* (except classes A and B explosives, commodities of unusual value, and household goods as defined by the Commission), between plant and mine sites located in Reynolds County, Mo., and that portion of Iron County, Mo., located north and west of Iron County Highway H, beginning at the Reynold-Iron County line, thence to Missouri Highway 21, thence along Missouri Highway 21 to Iron County Highway W, thence along Iron County Highway W to the Iron-St. Francois County line, on the one hand, and, on the other, points in Missouri. **NOTE:** Applicant proposes to tack at Steelville, Mo., with authority it is seeking to acquire in MC-F-9672. If a hearing is deemed necessary, applicant requests it be held at St. Louis or Jefferson City, Mo.

No. MC 108335 (Sub-No. 5), filed April 18, 1967. Applicant: ALL PURPOSE APPLIANCE DELIVERIES, INC., 32-04 Northern Boulevard, Long Island City, N.Y. Applicant's representative: Morris Honig, 150 Broadway, New York, N.Y. 10038. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: *Gas and electric household appliances, such as, washers, dryers, refrigerators, freezers, ranges, stoves, domestic air conditioners and other items normally dealt in by shipper*, between Newark, N.J., on the one hand, and, on the other, New York, N.Y., and points in Nassau, Suffolk, and Westchester Counties, N.Y., under contract with Apollo Distributing Co., Inc., Newark, N.J. **NOTE:** If a hearing is deemed necessary, applicant requests it be held at New York, N.Y., or Newark, N.J.

No. MC 110420 (Sub-No. 541), filed April 17, 1967. Applicant: QUALITY CARRIERS, INC., 100 South Calumet Street, Burlington, Wis. 53105. Applicant's representative: Allan B. Torhorst (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Vegetable oils*, in bulk, in tank vehicles, from Louisville, Ky., to Tulsa, Okla., and Irving, Tex. **NOTE:** If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Chicago, Ill.

No. MC 110525 (Sub-No. 825), filed April 19, 1967. Applicant: CHEMICAL LEAMAN TANK LINES, INC., 520 East Lancaster Avenue, Downingtown, Pa. 19335. Applicant's representative: Edwin H. van Deusen (same address as applicant), and Leonard A. Jaskiewicz, 1155 15th Street NW., Madison Building, Washington, D.C. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Chemicals*, in bulk, in tank vehicles, from the plantsite or terminals of Dow Chemical Co. at or near Columbus, Ga., to points in Florida. **NOTE:** Applicant states the instant application is restricted against tacking with any other authority held by applicant. If a hearing is deemed necessary, applicant requests it be held at Atlanta, Ga., or Washington, D.C.

No. MC 110525 (Sub-No. 826), filed April 19, 1967. Applicant: CHEMICAL LEAMAN TANK LINES, INC., 520 East Lancaster Avenue, Downingtown, Pa. 19335. Applicant's representative: Edwin H. van Deusen (same address as applicant), and Leonard A. Jaskiewicz, 1155 15th Street NW., Madison Building, Washington, D.C. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Liquid toluene di isocyanate*, in bulk, in tank vehicles, from Moundsville, W. Va., and points within five (5) miles thereof, to points in Connecticut, and Massachusetts, restricted to traffic originating at the origin named and destined to the territory named herein. **NOTE:** If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 110525 (Sub-No. 827), filed April 19, 1967. Applicant: CHEMICAL LEAMAN TANK LINES, INC., 520 East Lancaster Avenue, Downingtown, Pa. 19335. Applicant's representative: Leonard A. Jaskiewicz, 1155 15th Street NW., Madison Building, Washington, D.C., and Edwin H. van Deusen (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Lard and edible tallow*, in bulk, in tank vehicles, from Orangeburg, S.C., to points in Georgia, North Carolina, South Carolina, and Tennessee. **NOTE:** If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 111069 (Sub-No. 41) (Amendment), filed March 8, 1967, published in FEDERAL REGISTER issue of March 23, 1967, amended April 13, 1967, and republished as amended this issue. Applicant: COLDWAY CARRIERS, INC., Post Office Box 38, Clarksville, Ind. 47131, also State Highway No. 131, Clarksville, Ind. Applicant's representative: Rudy Yessin, Sixth Floor, McClure Building, Frankfort, Ky. 40601. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: *Fresh meats* in vehicles equipped with mechanical refrigeration, from Union City and Memphis, Tenn., to New York City and the New York, N.Y., commercial zone, and Reading, Pa., under contract with W. M. Tynan & Co., Inc. **NOTE:** The purpose of this republication is to add Reading, Pa., as a destination point, thereby broadening the authority sought. If a hearing is deemed necessary, applicant requests it be held at Louisville, Ky., or Washington, D.C.

No. MC 112520 (Sub-No. 163), filed April 19, 1967. Applicant: MCKENZIE TANK LINES, INC., New Quincy Road, Post Office Box 1200, Tallahassee, Fla. 32302. Applicant's representative: Sol H. Proctor, 1730 American Heritage Life Building, Jacksonville, Fla. 32202. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Nitrogen fertilizer solutions*, in bulk, in tank vehicles, from Bainbridge, Ga., to points in Florida. **NOTE:** If a hearing is deemed necessary, applicant requests it be held at Jacksonville or Tallahassee, Fla., or Atlanta, Ga.

No. MC 112627 (Sub-No. 11), filed April 17, 1967. Applicant: OWENS

BROS., INC., Post Office Box 247, Dansville, N.Y. 14437. Applicant's representative: Raymond A. Richards, 23 West Main Street, Webster, N.Y. 14580. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Fertilizer, fertilizer materials, insecticides and pesticides, and related advertising materials* when moving at the same time, from the facilities of Armour Agricultural Chemical Co. (Armour & Co.) at or near Windsor, N.J., to points in Allegany, Chemung, Livingston, and Steuben Counties, N.Y. Note: If a hearing is deemed necessary, applicant requests it be held at Rochester or Buffalo, N.Y.

No. MC 113267 (Sub-No. 175), filed April 17, 1965. Applicant: CENTRAL & SOUTHERN TRUCK LINES, INC., 312 West Morris Street, Caseyville, Ill. 62232. Applicant's representative: Lawrence A. Fischer (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts and articles distributed by meat packinghouses*, as described in sections A and C of appendix I to Report in Descriptions in Motor Carrier Certificates 61 M.C.C. 209 and 766 (except hides and commodities in bulk, in tank vehicles), from the plant-site of the Mankato Packing Co. at or near Mankato, Kans., to points in Kentucky, Tennessee, Louisiana, Mississippi, Alabama, Georgia, Florida, North Carolina, and South Carolina. Note: If a hearing is deemed necessary, applicant requests it be held at Omaha, Neb.

No. MC 113855 (Sub-No. 156) (Amendment), filed February 27, 1967, published FEDERAL REGISTER issue of March 16, 1967, amended April 20, 1967, and republished as amended this issue. Applicant: INTERNATIONAL TRANSPORT, INC., South Highway 52, Rochester, Minn. 55902. Applicant's representative: Michael E. Miller, 502 First National Bank Building, Fargo, N. Dak. 58012. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Buildings, complete, knocked down and in sections (except those mounted on under carriages equipped with hitchball connector), and cooling equipment related thereto and moving in connection therewith*, from El Monte, Calif., to points in the United States, including Alaska (but excluding Hawaii). Note: The purpose of this republication is to amend the commodity description. If a hearing is deemed necessary, applicant requests it be held at San Francisco or Los Angeles, Calif.

No. MC 113974 (Sub-No. 22), filed April 17, 1967. Applicant: PITTSBURGH & NEW ENGLAND TRUCKING CO., a corporation, 211 Washington, Avenue, Dravosburg, Pa. 15034. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Iron and steel, iron and steel articles, materials, equipment and supplies used in the manufacture and processing of iron and steel and iron and steel articles, between points in the St. Louis, Mo.-East St. Louis, Ill., commercial zone (as defined by the Interstate Commerce Com-*

mission), Alton and Carlinville, Ill., and points within five (5) miles of Carlinville, on the one hand, and, on the other, points in Alabama, Arkansas, Connecticut, Delaware, Florida, Georgia, Illinois, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Hampshire, New Jersey, New York, North Carolina, North Dakota, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Vermont, Virginia, West Virginia, and Wisconsin. Note: If a hearing is deemed necessary, applicant requests it be held at St. Louis, Mo., or Chicago, Ill.

No. MC 114019 (Sub-No. 171), filed April 19, 1967. Applicant: MIDWEST EMERY FREIGHT SYSTEM, INC., 7000 South Pulaski Road, Chicago, Ill. 60629. Applicant's representative: Carl L. Steiner, 39 South La Salle Street, Chicago, Ill. 60603. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts, and articles distributed by meat packinghouses*, as described in sections A and C of appendix I to report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the plant-site of Oscar Mayer & Co., Inc., located at Beardstown, Ill., to points in Colorado, Connecticut, Delaware, Iowa, Kentucky, Maine, Maryland, Massachusetts, Minnesota, Missouri, Nebraska, New Jersey, New Hampshire, Rhode Island, South Dakota, Vermont, Virginia, West Virginia, Wisconsin, and the District of Columbia, restricted to traffic originating at the described plant-site and destined to points in the States named above. Note: If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 114045 (Sub-No. 274) (Amendment), filed April 13, 1967, published in the FEDERAL REGISTER issue of April 27, 1967, amended April 20, 1967, and republished as amended this issue. Applicant: TRANS-COLD EXPRESS, INC., Finley and Belt Line Road 75240, Post Office Box 5842, Dallas, Tex. 75222. Applicant's representative: R. L. Moore (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Frozen foodstuffs, unfit for human consumption, except in bulk, in tank vehicles, from points in Alabama, Georgia, Mississippi, Tennessee, North Carolina, South Carolina, Tampa, and Alachua, Fla., to Golden Meadow, and New Orleans, La.* Note: The purpose of the republication is to show New Orleans, La., as a destination point, thereby broadening the scope of the application. If a hearing is deemed necessary, applicant requests it be held at Dallas, Tex.

No. MC 114912 (Sub-No. 19), filed April 17, 1967. Applicant: CHARLES J. KOTWICA, doing business as ROME EXPRESS, Box 768, Rome, N.Y. 13441. Applicant's representative: Raymond A. Richards, 23 West Main Street, Webster, N.Y. 14580. Authority sought to operate

as a contract carrier, by motor vehicle, over irregular routes, transporting: *Fertilizer, fertilizer materials, insecticides and pesticides, and related advertising materials* when moving at the same time, from the facilities of Armour Agricultural Chemical Co. (Armour & Co.) at or near Windsor, N.J., to points in that part of New York bounded by a line beginning at Rochester, N.Y., and extending along U.S. Highway 15 to the New York-Pennsylvania State line to Hancock, N.Y., thence along New York Highway 17 to East Branch, N.Y., thence along New York Highway 30 to Margaretville, N.Y., thence along New York Highway 28 to Kingston, N.Y., thence along U.S. Highway 9W to Albany, N.Y., thence along U.S. Highway 9 to Latham, N.Y., thence along New York Highway 7 to Schenectady, N.Y., thence along New York Highway 5 to Utica, N.Y., thence along New York Highway 12 to junction unnumbered highway (formerly New York Highway 12) near Remsen, N.Y., thence along unnumbered highway through Remsen, to junction New York Highway 12, thence along New York Highway 12 to Watertown, N.Y., thence along New York Highway 3 to Sackets Harbor, N.Y., and thence along the shore of Lake Ontario to Rochester, including points on the indicated portions of the highways specified under contract with Armour Agricultural Chemical Co. Note: Applicant holds common carrier authority under MC-92688, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Rochester or Buffalo, N.Y.

No. MC 115162 (Sub-No. 144), filed April 6, 1967. Applicant: WALTER POOLE, doing business as POOLE TRUCK LINE, Post Office Box 310, Evergreen, Ala. Applicant's representative: Robert E. Tate, Suites 2025-2028, City Federal Building, Birmingham, Ala. 35203. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Plywood and plywood, coated, faced, or decorated with other materials, (a) from the plant-site of U.S. Plywood-Champion Papers, Inc., at or near Waycross (Ware County), Ga., to points in Alabama, Arkansas, District of Columbia, Florida, Georgia, Kansas, Maryland, Mississippi, North Carolina, Oklahoma, South Carolina, Virginia, West Virginia, and that part of Texas on and east of U.S. Highway 81, and (b) from the plant-site of U.S. Plywood-Champion Papers, Inc., at or near Holden, La., to points in Alabama, Florida, Georgia, Illinois, Indiana, Kentucky, Michigan, Mississippi, North Carolina, Ohio, South Carolina, Tennessee, Virginia, and West Virginia.* Note: Applicant states it presently holds authority on lumber, which includes plywood, from the respective origin points in (a) and (b) above, to points in Alabama, Florida, Maryland, Virginia, South Carolina, North Carolina, West Virginia, District of Columbia, Arkansas, Texas, and Kansas, respectively, by tacking at points in Alabama south of U.S. Highways 78 or 80, and desires to eliminate these gateways. If a hearing is deemed necessary,

applicant requests it be held at Atlanta, Ga., or Washington, D.C.

No. MC 115311 (Sub-No. 66), filed April 19, 1967. Applicant: J & M TRANSPORTATION CO., INC., Post Office Box 488, Milledgeville, Ga. Applicant's representative: Alan E. Serby, 1600 First Federal Building, Atlanta, Ga. 30303. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Animal feed*, from Bradenton, Fla., to points in Alabama, Georgia, Mississippi, Louisiana, North Carolina, South Carolina, and Tennessee. Note: If a hearing is deemed necessary, applicant requests it be held at Tampa, Fla., or Washington, D.C.

No. MC 117344 (Sub-No. 181), filed April 17, 1967. Applicant: THE MAXWELL CO., a corporation, 10380 Evendale Drive, Cincinnati, Ohio, also Post Office Box 15010, Cincinnati, Ohio. Applicant's representative: James R. Stiver, 50 West Broad Street, Columbus, Ohio 43215. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Spent silica gel catalyst*, in bulk, between points in Arkansas, Colorado, Delaware, Illinois, Indiana, Kansas, Kentucky, Louisiana, Maryland, Michigan, Minnesota, Missouri, New Jersey, New York, North Carolina, Ohio, Oklahoma, Pennsylvania, South Carolina, Texas, Virginia, West Virginia, and Wisconsin. Note: If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Cincinnati, Ohio.

No. MC 119268 (Sub-No. 67), filed April 17, 1967. Applicant: OSBORN, INC., 125 Milton Avenue SE., Atlanta, Ga. 30315. Applicant's representative: John P. Carlton, 325-29 Frank Nelson Building, Birmingham, Ala. 35203. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Clothing, garments and manufactured textile products*, from points in Tennessee to points in Washington, Oregon, Idaho, and Utah. Note: If a hearing is deemed necessary, applicant requests it be held at Atlanta, Ga., or Knoxville, Tenn.

No. MC 119665 (Sub-No. 1), filed April 18, 1967. Applicant: APD TRANSPORT CORP., 1 Railroad Place, Maspeth, N.Y. 11378. Applicant's representative: Morton E. Kiel, 140 Cedar Street, New York, N.Y. 10006. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, classes A and B, explosives, commodities requiring special equipment, and those injurious or contaminating to other lading), between applicant's terminal at Maspeth, N.Y., on the one hand, and, on the other, points in Rockland County, N.Y., Somerset, Mercer, Morris, Middlesex, Union, Essex, Hudson, Bergen, and Passaic Counties, N.J., restricted to traffic having an immediately prior or subsequent movement by applicant under applicant's present authority. Note: If a hearing is deemed necessary, applicant requests it be held at New York, N.Y.

No. MC 119767 (Sub-No. 195), filed April 20, 1967. Applicant: BEAVER

TRANSPORT CO., a corporation, 100 South Calumet Street, Burlington, Wis. 53105. Applicant's representative: Fred H. Figue (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes transporting: *Meats, meat products, meat byproducts and articles distributed by meat packinghouses*, as described in sections A and C of appendix I to report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the plantsite of Oscar Mayer & Co., Inc., Beardstown, Ill., to points in Indiana, Iowa, Michigan, Minnesota, Ohio, and Wisconsin, restricted to traffic originating at the described plantsite and destined to points in the States named above. Note: If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 119880 (Sub-No. 21), filed April 18, 1967. Applicant: DRUM TRANSPORT, INC., Post Office Box 2056, 616 Chicago Street, East Peoria, Ill. Applicant's representative: Donald L. Stern, 630 City National Bank Building, Omaha, Nebr. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Alcohol and alcoholic liquors*, in bulk, in tank vehicles, (1) from ports of entry into the United States located in Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, and Virginia, to Peoria and Pekin, Ill., San Francisco and Union City, Calif., and ports of entry on the international boundary line between the United States and Canada located in Michigan; (2) from Louisville and Lawrenceburg, Ky., and Muscatine, Iowa, to Seattle, Wash., and San Francisco, Calif.; and (3) from Atchison, Kans., to Seattle, Wash. Note: If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 119934 (Sub-No. 138), filed April 17, 1967. Applicant: ECOFF TRUCKING, INC., 625 East Broadway, Fortville, Ind. 46040. Applicant's representative: Robert C. Smith, 620 Illinois Building, Indianapolis, Ind. 46204. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Ethyl ether*, in bulk, in tank vehicles, from Tuscola, Ill., to the port of entry on the international boundary line between the United States and Canada, at or near Champlain, N.Y. Restricted to traffic destined to Canada. Note: If a hearing is deemed necessary, applicant requests it be held at Indianapolis, Ind.

No. MC 123061 (Sub-No. 40), filed April 17, 1967. Applicant: LEATHAM BROTHERS, INC., 46 Orange Street, Salt Lake City, Utah. Applicant's representative: Harry B. Pugsley, 600 El Paso Gas Building, Salt Lake City, Utah. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Salt and salt products*, in bags, in bulk and in mixed loads, from Wendover, Utah, and points in Utah within 10 miles thereof, to points in California on and north of a line extending westerly from the Nevada-

California line where U.S. Highway 6 crosses such State line, thence westerly to Bishop, Fresno, and Monterey, Calif. Note: If a hearing is deemed necessary, applicant requests it be held at Salt Lake City, Utah, or San Francisco, Calif.

No. MC 124796 (Sub-No. 29), filed April 17, 1967. Applicant: CONTINENTAL CONTRACT CARRIER CORP., 7236 East Slauson, Los Angeles, Calif. 90022. Applicant's representative: J. Max Harding, 605 South 14th Street, Post Office Box 2028, Lincoln, Nebr. 68501. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: (1) *Buffing and polishing compounds, cleaning, scouring, and washing compounds, solvents, sponges, starch, and advertising materials and racks moving with the described commodities*, from Kankakee, Ill., to points in Michigan, (2) *synthetic sponge material*, from Benton Harbor, Mich., to Kankakee, Ill., and (3) *outdated or rejected shipments of merchandise described in (1) above*, from points in Arizona, California, Florida, Georgia, Idaho, Louisiana, Michigan, Nevada, Oregon, Texas, Utah, and Washington, to Kankakee, Ill., under contract with Simoniz Co., an affiliate of Morton International, Inc., Chicago, Ill. Note: Applicant presently holds authority to handle outbound shipments from Kankakee, Ill., to all the States listed in (3) of the application except Michigan, Louisiana, and Texas, and this part of the application is designed only to facilitate the return of outdated or rejected merchandise back to the shippers plant at Kankakee, Ill. If a hearing is deemed necessary, applicant requests it be held at New Orleans, La., or Chicago, Ill.

No. MC 125777 (Sub-No. 111), filed April 17, 1967. Applicant: JACK GRAY TRANSPORT, INC., 3200 Gibson Transfer Road, Hammond, Ind. 46323. Applicant's representative: Carl L. Steiner, 39 South La Salle Street, Chicago, Ill. 60603. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Chemicals*, in bulk, in dump vehicles, from Clinton, Iowa, to points in Arkansas, Illinois, Indiana, Kansas, Kentucky, Michigan, Minnesota, Missouri, Nebraska, North Dakota, Ohio, South Dakota, and Wisconsin. Note: If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 125777 (Sub-No. 112), filed April 19, 1967. Applicant: JACK GRAY TRANSPORT, INC., 3200 Gibson Transfer Road, Hammond, Ind. 46323. Applicant's representative: Carl L. Steiner, 39 South La Salle Street, Chicago, Ill. 60603. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Slag and slag products*, in bulk, in dump vehicles, from Hamilton, Ohio, and points within 10 miles thereof, to points in Illinois. Note: If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 126516 (Sub-No. 5), filed April 19, 1967. Applicant: GEORGE K. HALL, doing business as SKYLINE MOTORS, West 15th Street, Beaver

Falls, Pa. 15010. Applicant's representative: Russell S. Bernhard, 1625 K Street NW., Washington, D.C. 20006. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between the Greater Pittsburgh Airport, Allegheny County, Pa., on the one hand, and, on the other, points in Venango County, Pa., restricted to traffic having an immediately prior or immediately subsequent movement by air. **NOTE:** If a hearing is deemed necessary, applicant requests it be held at Pittsburgh, Pa.

No. MC 128548 (Sub-No. 1), filed April 18, 1967. Applicant: LIONEL TRUCK LINES, INC., 10257 Franklin Avenue, Franklin Park, Ill. 60131. Applicant's representative: Charles W. Singer, Suite 3600, 33 North La Salle Street, Chicago, Ill. 60602. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) *Such merchandise as is dealt in by wholesale grocery houses, from Chicago, Ill., to points in that part of Indiana north of U.S. Highway 40, and that part of Michigan south of a line beginning at the Indiana-Michigan State line and extending along U.S. Highway 12 to junction unnumbered highway (formerly portion U.S. Highway 12), at or near New Buffalo, Mich., thence along unnumbered highway through Union Pier and Harbert, Mich., to junction Interstate Highway 94 (formerly portion U.S. Highway 12), thence along Interstate Highway 94 to junction Business Route Interstate Highway 94 (formerly portion U.S. Highway 12), thence along Business Route Interstate Highway 94 to Benton Harbor, Mich., thence along unnumbered highway through Coloma, Paw Paw, and Oshtemo, Mich., to Kalamazoo, Mich., and west of a line beginning at Kalamazoo, Mich., and extending along unnumbered highway (formerly portion U.S. Highway 131) through Portage, Mich., to junction U.S. Highway 131, at or near Schoolcraft, Mich., thence along U.S. Highway 131 to junction U.S. Highway 12 (formerly portion U.S. Highway 131), thence along U.S. Highway 12 to junction Michigan Highway 103 (formerly portion U.S. Highway 131), thence along Michigan Highway 103 to the Michigan-Indiana State line (except Kalamazoo, Mich.), including points on the indicated portions of the highways specified.*

(2) *Empty food and beverage containers and returned or rejected merchandise, from points in the above-specified destination territory, to Chicago, Ill., (3) canned fruits and vegetables, from points in that part of Michigan south of a line beginning at the Indiana-Michigan State line and extending along U.S. Highway 12 to junction unnumbered highway (formerly portion U.S. Highway 12), at or near New Buffalo, Mich., thence along unnumbered highway through Union Pier and Harbert, Mich., to junction Interstate Highway 94 (formerly portion*

U.S. Highway 12), thence along Interstate Highway 94 to junction Business Route Interstate Highway 94 (formerly portion U.S. Highway 12), thence along Business Route Interstate Highway 94 to Benton Harbor, Mich., thence along unnumbered highway through Coloma, Paw Paw, and Oshtemo, Mich., to Kalamazoo, Mich., and west of a line beginning at Kalamazoo, Mich., and extending along unnumbered highway (formerly portion U.S. Highway 131) through Portage, Mich., to junction U.S. Highway 131, at or near Schoolcraft, Mich., thence along U.S. Highway 131 to junction U.S. Highway 12 (formerly portion U.S. Highway 131), thence along U.S. Highway 12 to junction Michigan Highway 103 (formerly portion U.S. Highway 131), thence along Michigan Highway 103 to the Michigan-Indiana State line (except Kalamazoo, Mich.), and those points in Indiana north of U.S. Highway 40 (except those in Lake and Porter Counties, Ind., and except those north of U.S. Highway 20 and west of Indiana Highway 15), including points on the indicated portions of the highways specified, to Chicago, Ill.

(4) *Such merchandise as is dealt in by wholesale, retail, and chain grocery and food business houses, and in connection therewith, equipment, materials, and supplies used in the conduct of such business, between points within the territory bounded by a line beginning at Galena, Ill., and extending in a southeasterly direction to Savanna, Ill., thence south to Galesburg, Ill., thence in a southeasterly direction to Peoria, Ill., thence east to Onarga, Ill., thence in a northeasterly direction to Warsaw, Ind., thence north to Goshen, Ind., thence in a northwesterly direction through Niles, Mich., to Bridgman, Mich., thence along the shore of Lake Michigan to Winthrop Harbor, Ill., thence west through South Beloit and Warren, Ill., to Galena, Ill., including the points named, and (5) *such merchandise, as is dealt in by wholesale grocery houses, from River Grove, Ill., to retail outlets in Kalamazoo, Mich.* **NOTE:** Applicant states the purpose of the instant application is to convert all of its authority from contract to common carriage. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.*

No. MC 128763 (Sub-No. 2), filed April 18, 1967. Applicant: K. H. TRANSPORT, INC., Rural Route Delivery 2, Ellicott City, Md. 21043. Applicant's representative: Chester A. Zyblut, 1522 K Street NW., Washington, D.C. 20005. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: *Ingredients and products thereof, processed and manufactured by food processors and machinery, materials, equipment, and supplies used in the processing and manufacture of foodstuffs, and (2) commodities, the transportation of which is partially exempt under the provisions of section 203(b) (6) of the Interstate Commerce Act if transported in vehicles not used in carrying any other property, when moving in the same vehicles at the*

same time with ingredients and products thereof, processed and manufactured by food processors, and machinery, materials, equipment and supplies used in the processing and manufacture of foodstuffs, between plants, warehouses and storage facilities of Campbell Soup Co. located at points in York, Columbia, and Centre Counties, Pa., Downingtown, Pa.; points in Gloucester, Cumberland, Salem, Burlington, and Camden Counties, N.J.; New Castle, Kent, and Sussex Counties, Del.; Somerset, Worcester, Wicomico, Dorchester, Caroline, Kent, Talbot, Queen Annes, Harford, and Baltimore Counties, Md.; Accomack County, Va.; Sumter, S.C., and Blairsville and Cairo, Ga., under contract with the Campbell Soup Co. NOTE: If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 128764 (Sub-No. 2), filed April 18, 1967. Applicant: ERDNER BROS. INC., Fow and Leahy Avenues, Swedesboro, N.J. 08085. Applicant's representative: Chester A. Zyblut, 1522 K Street NW., Washington, D.C. 20005. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: (1) *Ingredients and products thereof, processed and manufactured by food processors and machinery, materials, equipment, and supplies used in the processing and manufacture of foodstuffs, and (2) commodities, the transportation of which is partially exempt under the provisions of section 203(b) (6) of the Interstate Commerce Act if transported in vehicles not used in carrying any other property, when moving in the same vehicles at the same time with ingredients and products thereof, processed and manufactured by food processors, and machinery, materials, and equipment and supplies used in the processing and manufacture of foodstuffs, between plants, warehouses and storage facilities of Campbell Soup Co. located at points in York, Columbia, and Centre Counties, Pa., Downingtown, Pa.; points in Gloucester, Cumberland, Salem, Burlington, and Camden Counties, N.J.; New Castle, Kent, and Sussex Counties, Del.; Somerset, Worcester, Wicomico, Dorchester, Caroline, Kent, Talbot, Queen Annes, Harford, and Baltimore Counties, Md.; Accomack County, Va.; Sumter, S.C., and Blairsville and Cairo, Ga., under contract with the Campbell Soup Co. NOTE: If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.*

No. MC 128857 (Sub-No. 1), filed April 18, 1967. Applicant: G. L. GIBBONS, doing business as G. L. GIBBONS TRUCKING SERVICE, Post Office Box 5861, Tucson, Ariz. 85703. Applicant's representative: A. Michael Bernstein, 1327 Guaranty Bank Building, 3550 North Central Avenue, Phoenix, Ariz. 85012. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Lime, from the U.S. Lime Plant at Henderson, and Sloan, Nev., to points in Arizona. NOTE: If a hearing is deemed necessary, applicant requests it be held at Phoenix, Ariz., or Los Angeles, Calif.*

No. MC 128890 (Sub-No. 1), filed April 20, 1967. Applicant: BECKER'S MOTOR TRANSPORTATION, INC., 528 Michigan Avenue, Kenilworth, N.J. 07033. Applicant's representative: William D. Traub, 10 East 40th Street, New York, N.Y. 10016. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Electrically equipped trailers*, in truck-away service, and *generator trucks*, in driveway service, between points in the United States, including Alaska and Hawaii, under contract with International Business Machines Corp. NOTE: Applicant is authorized to operate as a common carrier in Docket No. MC 36918, therefore, dual operation may be involved. If a hearing is deemed necessary, applicant requests it be held at New York, N.Y., or Washington, D.C.

No. MC 128904 (Sub-No. 2) (Amendment), filed March 8, 1967, published in the FEDERAL REGISTER issue of March 30, 1967, amended April 18, 1967, and republished as amended, this issue. Applicant: GLENN NAREHOOD AND JAY NAREHOOD, a partnership, doing business as NAREHOOD TRUCKING CO., Rural Delivery No. 1, Milton, Pa. Applicant's representative: George A. Olsen, 69 Tonnele Avenue, Jersey City, N.J. 07306. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, other than in bulk, from Milton, Pa., to points in Connecticut, Massachusetts, Rhode Island, New Hampshire, Vermont, and Maine, under contract with American Home Foods, division of American Home Products Corp. NOTE: The purpose of this republication is to add Vermont as a destination point. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Harrisburg, Pa.

No. MC 128989, filed April 3, 1967. Applicant: ROBERT M. SCHMITZ AND WILLIAM M. SCHMITZ, a partnership, doing business as BONESTEEL TRANSFER, Bonesteel, S. Dak. Applicant's representative: Don A. Bierle, Suite 4, Law Building, 322 Walnut Street, Yankton, S. Dak. 57078. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer*, from the Crystal Chemical Co., South Sioux City, Nebr., to Bonesteel, Herrick, and Fairfax, S. Dak., and to points in Gregory, Charles Mix, and Tripp Counties, S. Dak., excepting other municipalities therefrom, and (2) *animal and poultry feed and lumber and building materials*, from Sioux City, Iowa, to Bonesteel, Herrick, and Fairfax, S. Dak., and to points in Gregory, Charles Mix, and Tripp Counties, S. Dak., excepting other municipalities therefrom. NOTE: If a hearing is deemed necessary, applicant requests it be held at Sioux City, Iowa, Sioux Falls, or Pierre, S. Dak.

No. MC 129029, filed April 19, 1967. Applicant: WESLEY KOOTSTRA, doing business as WESLEY KOOTSTRA TRUCKING, 886 Telfer Road, Sarnia, Ontario, Canada. Applicant's representa-

tive: A. Louis Eddy, 316 North Christina Street, Sarnia, Ontario, Canada. Authority sought to operate as a *contract carrier*, by motor vehicle, over regular routes, transporting: *Sand, gravel, stone, rock*, from the plantsite Don Foster, Inc., Richmond, Mich., to the port of entry on the international boundary line between the United States and Canada located at the Bluewater Bridge at or near Port Huron, Mich., from Richmond over unnumbered highway (32 Mile Road) to junction Interstate Highway 94, thence over Interstate Highway 94 to said port of entry, serving no intermediate points, under contract with Don Foster, Inc., Richmond, Mich. NOTE: If a hearing is deemed necessary, applicant requests it be held at Detroit or Port Huron, Mich.

No. MC 129033 filed April 17, 1967. Applicant: MEAT DISPATCH, INC., 1000 Jefferson Road, Rochester, N.Y. 14623. Applicant's representative: Raymond A. Richards, 23 West Main Street, Webster, N.Y. 14580. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities as are dealt in by wholesale and retail department stores*, from Rochester, N.Y., to points in Florida. NOTE: Applicant holds contract carrier authority under MC-128555, therefore, dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Rochester or Buffalo, N.Y.

MOTOR CARRIER OF PASSENGERS

No. MC 94742 (Sub-No. 34), filed April 19, 1967. Applicant: MICHAUD BUS LINES, INC., 250 Jefferson Avenue, Salem, Mass. 01970. Applicant's representative: Frank Daniels, 15 Court Square, Boston, Mass. 02108. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage*, in the same vehicle with passengers, in special operations, in round-trip, pleasure, and sightseeing tours, in combination with air travel through arrangements with air carriers, beginning and ending at points in Essex County, Mass., and the Boston, Mass., commercial zone, as defined by the Commission and Lowell, Mass., and extending to points in the United States including Hawaii and Alaska. NOTE: If a hearing is deemed necessary, applicant requests it be held at Boston, Mass.

APPLICATION FOR BROKERAGE LICENSE

No. MC 130037 filed April 13, 1967. Applicant: GRAY LINE NATIONAL TOURS CORPORATION, 1 Rockefeller Plaza, Room 1209, New York, N.Y. Applicant's representative: S. Harrison Kahn, Suite 733, Investment Building, Washington, D.C. For a license (BMC 5) to engage in operations as a *broker* at points in the United States, in arranging for transportation in interstate or foreign commerce of *passengers and their baggage*, in all types of passenger service, between points in the United States, including Alaska and Hawaii.

APPLICATION OF FREIGHT FORWARDER

No. FF-221 (Sub-No. 3), BARGE SERVICE CORPORATION—Extension—Plastic Tanks, filed April 19, 1967. Applicant: BARGE SERVICE CORPORATION, 1202 Benedum-Trees Building, Pittsburgh, Pa. Applicant's representative: Joe G. Fender, 802 Houston First Savings Building, Fannin at Capitol Houston, Tex. 77002. Authority sought under section 410, Part IV of the Interstate Commerce Act to extend operations as a *freight forwarder* in interstate or foreign commerce, through use of the facilities of common carriers by water in the transportation of *plastic storage tanks*, from Monaco, Pa., to points on the intercoastal waterway and connecting waterways from New Orleans, La., to Brownsville, Tex., both inclusive.

By the Commission.

[SEAL]

H. NEIL GARSON,
Secretary.

[P.R. Doc. 67-4941; Filed, May 3, 1967;
8:45 a.m.]

[Notice 1512]

MOTOR CARRIER TRANSFER PROCEEDINGS

MAY 1, 1967.

Synopses of orders entered pursuant to section 212(b) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 279), appear below:

As provided in the Commission's special rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings within 20 days from the date of publication of this notice. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC-69486. By order of April 26, 1967, the Transfer Board, on reconsideration, approved the transfer to Silcon Trucking Co., Inc., Brockton, Mass., of Certificate No. MC-34099, issued November 25, 1949, to Granite City Express Co., a corporation, Quincy, Mass., authorizing the transportation of general commodities, with the usual exceptions, over irregular routes, between Boston, Mass., on the one hand, and, on the other, points and places in Massachusetts on and east of U.S. Highway 1 and south of U.S. Highway 20, within 15 miles of Boston. Francis E. Barrett, Jr., Investors Building, 536 Granite Street, Braintree, Mass. 02184, attorney for applicants.

No. MC-FC-69557. By order of April 27, 1967, the Transfer Board approved the transfer to Chieftain Van Lines, Inc., Council Bluffs, Iowa, of the Certificate in No. MC-74169 and MC-74169 (Sub-No. 2), issued June 27, 1955, and December 22, 1958, respectively, to George R. Whitney, doing business as Chieftain Van and Storage, Council Bluffs, Iowa, authorizing the transportation of: General

commodities, excluding household goods, commodities in bulk, and other specified commodities, between Omaha, Nebr., and Council Bluffs, Iowa; and household goods, between Council Bluffs, Iowa, on the one hand, and, on the other, points in Nebraska, Kansas, Missouri, Illinois, Minnesota, South Dakota, and Colorado, and between points in Iowa, and Nebraska within 50 miles of Council Bluffs, Iowa, including Council Bluffs, on the one hand, and, on the other, points in Iowa and Nebraska. Emmet Tinley, 501 Park Building, Council Bluffs, Iowa, attorney for applicants.

No. MC-FC-69581. By order of April 25, 1967, the Transfer Board approved the transfer to Morris Hill Travel, Inc., 54 North Third Street, Easton, Pa., of Brokerage License No. MC-12493, issued May 6, 1953, to Morris C. Hill, 54 North Third Street, Easton, Pa., authorizing the holder thereof to engage in operations, as a broker, as follows: Passengers and their baggage, in round-trip tours, beginning and ending at points in Northampton County, Pa., and Warren County, N.J., and extending to all points in the United States, including the District of Columbia.

No. MC-FC-69591. By order of April 26, 1967, the Transfer Board approved the transfer to North Central Van Lines, Inc., Lincoln, Nebr., of a portion of the operating rights in Certificate No. MC-100404, issued October 25, 1949, to Robert Wallace, Belle Fourche, S. Dak., authorizing the transportation of: Household goods, as defined by the Commission, between specified points and areas of South Dakota and Wyoming. Robert J. Gallagher, 111 State Street, Boston, Mass. 02109, attorney for applicants.

No. MC-FC-69592. By order of April 26, 1967, the Transfer Board approved the transfer to All Jersey Trails, a corporation, Bloomingdale, N.J., of the operating rights in Certificate No. MC-95232 issued October 24, 1949, to T. A. Gearty Bus Co., Inc., 74 Personette Avenue, Verona, N.J., authorizing the transportation of: Passengers and their baggage, restricted to traffic originating at the points indicated, in charter operations, over irregular routes, between points and places in Essex County, N.J., on the one hand, and, on the other, New York, N.Y., and points and places in Orange, Rockland, and Westchester Counties, N.Y. Charles J. Williams, 1060 Broad Street, Newark, N.J. 07102, attorney for transferee.

No. MC-FC-69563. By order of April 20, 1967, the Transfer Board approved the transfer to W. J. Shannon Trucking Co., a corporation, Worcester, Mass., of certificate in No. MC-3280, issued April 15, 1941, to Worcester Truck Co., Inc., Worcester, Mass., authorizing the transportation of: Heavy machinery, between Worcester, Mass., and points within 25 miles of Worcester, on the one hand, and, on the other, points in Connecticut, New Hampshire, and Rhode Island. Francis E. Barrett, Jr., Investors Building, 526 Granite Street, Braintree, Mass. 02184, attorney for applicants.

No. MC-FC-69567. By order of April 21, 1967, the Transfer Board approved the transfer to Mann Cartage Co., Inc., Evergreen Park, Ill. 60642, of the certificate of registration No. MC-98883 (Sub-No. 1), evidencing a right to engage in interstate or foreign commerce within the State of Illinois, issued April 29, 1964, to Philip Timothy Mann, doing business as Mann Cartage, Evergreen Park, Ill. Themis N. Anastos, 120 West Madison Street, Chicago, Ill. 60602, attorney for applicants.

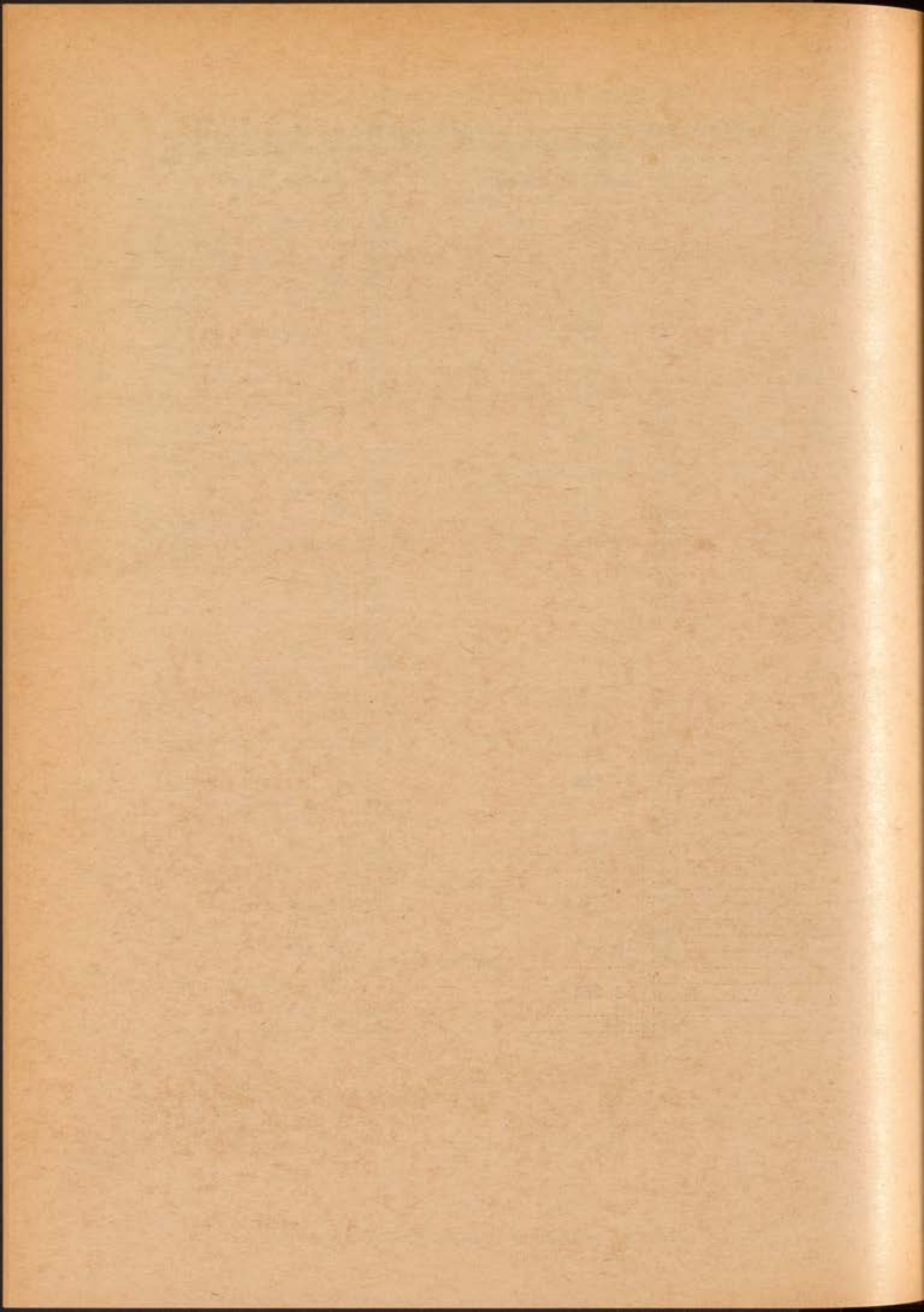
[SEAL]

H. NEIL GARSON,
Secretary.[F.R. Doc. 67-5008; Filed, May 3, 1967;
8:49 a.m.]

CUMULATIVE LIST OF PARTS AFFECTED—MAY

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PART II

Department of Agriculture
Consumer and Marketing Service

Milk in Minnesota- North Dakota Marketing Area

Notice of Recommended Decision



DEPARTMENT OF AGRICULTURE

Consumer and Marketing Service

[7 CFR Part 1060]

[Docket No. AO 360]

MILK IN MINNESOTA-NORTH
DAKOTA MARKETING AREANotice of Recommended Decision and
Opportunity To File Written Exceptions
on Proposed Marketing
Agreement and Order

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), notice is hereby given of the filing with the Hearing Clerk of this recommended decision with respect to a proposed marketing agreement and order regulating the handling of milk in the Minnesota-North Dakota marketing area. Interested parties may file written exceptions to this decision with the Hearing Clerk, U.S. Department of Agriculture, Washington, D.C. 20250, by the 20th day after publication of this decision in the FEDERAL REGISTER. The exceptions should be filed in quadruplicate. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

Preliminary statement. The hearings on the record of which the proposed marketing agreement and order, as herein-after set forth, were formulated, were conducted at Fargo, N. Dak., on August 15-19, 1966, pursuant to notice thereof which was issued July 5, 1966 (31 F.R. 9351), and subsequently at reopened hearings held jointly with certain other Federal order markets at Denver, Colo., on November 16-17, 1966, and on April 11-12, 1967. Official notice is taken of the respective decisions issued by the Department on the basis of these hearings (31 F.R. 14946 issued Nov. 23, 1966, and 32 F.R. 6501 issued Apr. 25, 1967), pursuant to notices issued November 4, 1966 (31 F.R. 14407), and April 4, 1967 (32 F.R. 5696).

The material issues of record relate to:

1. Whether the handling of milk produced for sale in the proposed marketing area is in the current of interstate commerce, or directly burdens, obstructs, or affects interstate commerce in milk or its products;
2. Whether marketing conditions show the need for the issuance of a milk marketing agreement or order which will tend to effectuate the policy of the Act; and
3. If an order is issued what its provisions should be with respect to:
 - a. The scope of regulation;
 - b. The classification and allocation of milk;
 - c. The determination and level of class prices;

d. Distribution of proceeds to producers; and

e. Administrative provisions.
Findings and conclusions. The following findings and conclusions on the material issues are based on evidence presented at the hearings and the records thereof:

1. **Character of commerce.** The handling of milk in the proposed marketing area is in the current of interstate commerce in milk and milk products.

The marketing area specified in the proposed order, hereinafter referred to as the "Minnesota-North Dakota marketing area" includes all the territory within 41 contiguous counties in the States of Minnesota (22 counties), North Dakota (16 counties), and South Dakota (3 counties).

The principal cities in this area are: Fargo, Grand Forks, Valley City, Devils Lake, Wahpeton, and Grafton, N. Dak.; Moorhead, Fergus Falls, Bemidji, Crookston, Thief River Falls, East Grand Forks, and Detroit Lakes, Minn. The specific counties in the proposed area are listed in the marketing area discussion.

There are more than 50 handlers engaged in the distribution of fluid milk in the marketing area who would be regulated under the terms of the order as recommended herein. The Grade A milk supply and distribution areas of a number of these handlers, representing a substantial proportion of the total volume of Grade A milk associated with the market, extend beyond the boundaries of the State in which their plants are located.

The Land O'Lakes Creameries, Inc., is a large distributor of bottled milk in the area and is one of the largest distributors of butter and manufacturers of nonfat dry milk in the United States. Their plants located in Grand Forks, N. Dak., and Thief River Falls, and Brainerd, Minn., distribute fluid milk products extensively in both Minnesota and North Dakota. Milk is received at such plants from producers and member plants located in both such States.

The Cass-Clay Creamery, Inc., another major cooperative handler, receives milk at its Fargo, N. Dak., plant from producers located in North Dakota and Minnesota. Grade A fluid milk products are distributed from this plant into certain areas of Minnesota, North Dakota, and South Dakota. Manufactured grade milk as well as a substantial part of the Grade A receipts at the Fargo plant is manufactured into butter, ice cream, and dry milk which are disposed of in large part in markets located in other States. In addition, this handler ships regularly a quantity of bulk milk to a plant located in Montana.

Located across the Red River from Fargo is the Fairmont Foods Co. plant in Moorhead, Minn. This handler also receives Grade A milk from producers located in both Minnesota and North Dakota. It distributes Grade A products on routes extending into North Dakota, South Dakota, and Minnesota.

Another large processor and distributor of Grade A fluid milk products is the Fergus Dairy of Fergus Falls, Minn. This cooperative organization receives a large volume of Grade A milk from producer members and from member cooperatives located in Minnesota, North Dakota, and South Dakota. The distribution area of this cooperative organization covers a wide territory in western Minnesota, North Dakota, and northeastern South Dakota.

Record evidence clearly shows the free movement of milk across the respective State lines. Distribution of milk on routes in the adjoining cities of Fargo, N. Dak., Moorhead, Minn., and also Grand Forks, N. Dak., and East Grand Forks, Minn., emanates both from plants located in North Dakota and in Minnesota. Further, products manufactured from surplus Grade A milk at certain of these plants are shipped to Chicago, New York, and to other markets throughout the United States and abroad.

2. **Need for an order.** Marketing conditions in the Minnesota-North Dakota marketing area are such that the issuance of a marketing agreement or order to regulate the handling of milk in the area will tend to effectuate the declared policy of the Act.

The Minnesota-North Dakota market as defined herein is characterized by unstable marketing conditions. The conditions which have resulted in unrest and instability in this area are typical of those often encountered elsewhere in the fluid milk industry in the absence of a well-defined, marketwide, classified pricing plan.

There is rather general agreement among producer interests in the market that the unstable marketing conditions in the area are such that an overall system of classification and pricing of milk should be adopted, and for such a system to be effected it must be created out of governmental authority.

The Minnesota-North Dakota market is a region of heavy milk production relative to population. Less than half of the producer milk which would be regulated is now used for Class I on an annual average. Thus, in an area relatively rural in nature the outlets available to producers for the sale of their milk in the highest valued uses are limited. This situation in a market which may be categorized as a "buyers market", has contributed to producer unrest and conditions of disorderly marketing in the attempts of producers to obtain proportionate shares of the higher valued Class I market.

The more than 50 handlers distributing milk in the area generally purchase milk from farmers according to their own pricing systems. There is, therefore, no uniformity in the type of pricing plans used in the area. Prices are not necessarily related to the uses of milk.

Since milk has a greater value when used for fluid products than for manufactured dairy products, the absence of a pricing system based on utilization

creates disparities in handlers' costs of milk for the same uses. This, in turn, provides an incentive for handlers to shift the burden of such disparities to producers through still lower prices.

Certain handlers in the market with high proportions of their total utilization as Class I during the months of relatively low farm production purchase supplemental milk supplies from other handlers who have substantially lower utilization of their milk for Class I bottling purposes. In some cases the prices paid producers at the higher use plants are only slightly above those paid at the plants where such supplemental supplies are obtained. Also, the burden of carrying the necessary reserve supplies for the market is shifted to the suppliers of such supplemental milk.

Prices paid by certain distributors of Grade A milk are, therefore, determined in large part by the prices paid producers by one or another of the major handlers in the market. Hence, these prices are not based on the utilization of the particular handler involved.

In recent years, frequent price wars have adversely affected producer prices. Picketing of retail stores has been resorted to in an effort to secure higher milk prices for farmers. Further, milk producers in considerable numbers have shifted their patronage from one company to another in the hope that by realigning their cooperative affiliation they might increase the price they receive for their milk.

A uniform pricing plan applicable to all handlers buying milk for sale in the area would stabilize and improve marketing conditions in the area. Such a plan can be made effective in the area under the terms of a milk order issued pursuant to the provisions of the Agricultural Marketing Agreement Act, as amended.

An order which establishes a system of uniform prices, publicly announced and verified on an impartial basis, will eliminate the uncertainty about prices which has contributed to disorderly marketing conditions in the area. The order would contribute substantially to the improvement of many of the conditions complained of, and tend to effectuate the declared policy of the Act; namely by providing:

1. A regular and dependable procedure through public hearings for determining prices to producers at levels contemplated by the Act;
2. The establishment of uniform prices to handlers for milk received from producers according to a classified price plan based upon the utilization made of the milk;
3. An impartial audit of handlers' records to verify the payment of required prices;
4. A system for verifying the accuracy of the weight and butterfat content of milk purchased;
5. Uniform returns to producers supplying the market, based upon an equitable sharing among all producers of the lower returns for the sale of reserve milk which cannot be marketed in the Class I category; and

6. Marketwide information on receipts, sales, prices, and other data relating to milk marketing conditions in the area.

3. *Order provisions—*a. Scope of regulation.** It is necessary to designate clearly what milk and which persons would be subject to the various provisions of the order. This is accomplished by providing specified definitions to describe the marketing areas involved and to describe the category of persons, plants, and milk products to which the applicable provisions of the order relate.

(1) *Marketing Area.* The Minnesota-North Dakota marketing area should include all the territory within the 41 contiguous counties as follows:

COUNTIES IN WESTERN MINNESOTA

Becker.	Marshall.
Beltrami.	Norman.
Big Stone.	Otter Tail.
Clay.	Pennington.
Clearwater.	Polk.
Douglas.	Red Lake.
Grant.	Roseau.
Hubbard.	Stevens.
Kittson.	Traverse.
Lake of the Woods.	Wadena.
Mahnomen.	Wilkin.

COUNTIES IN EASTERN NORTH DAKOTA

Barnes.	Pembina.
Cass.	Ramsey.
Cavalier.	Ransom.
Dickey.	Richland.
Grand Forks.	Sargent.
Griggs.	Steele.
La Moure.	Trall.
Nelson.	Walsh.

COUNTIES IN NORTHEASTERN SOUTH DAKOTA

Grant.	Roberts.
Marshall.	

The 41-county area proposed for adoption represents a contiguous area roughly bisected by the Red River which marks the boundary separating Minnesota from North and South Dakota.

The sanitary requirements relative to the production, processing, and sale of fluid milk products are substantially the same throughout the area. Grade A products sold for human consumption throughout the area must meet the standards of health ordinances patterned after the U.S. Public Health Service Milk Ordinance and Code. Handlers who would be subject to full regulation distribute 95 percent or more of the milk sold in the area.

The 1960 census of population for the area proposed to be regulated was 639,666.¹ Two principal population centers are located in the Red River Valley area.

One comprises Cass County, N. Dak. (population 66,947), and Clay County, Minn. (population 39,080). These counties include two of the three largest cities in the marketing area, Fargo N. Dak., and Moorhead, Minn. The population of the two counties is about 16 percent of the total marketing area. The adjoining counties of Becker and Otter Tail, Minn., include the Cities of Fergus Falls (13,733) and Detroit Lakes (5,633) both less than 60 miles from Moorhead.

¹ All population figures hereinafter cited are based upon the 1960 census unless otherwise noted.

Minn. The total population in this four-county area is about 30 percent of the total marketing area.

The other population center in the Red River Valley area surrounds Grand Forks, N. Dak., located approximately 75 miles north of Fargo.

Within the contiguous counties of Grand Forks, N. Dak. (population 48,677), and Polk, Minn. (population 36,182), are the cities of Grand Forks, N. Dak. (34,451); East Grand Forks, Minn. (6,998); and Crookston, Minn. (8,546); with a combined population equal to 8 percent of the total marketing area. The 2 counties have a population of 84,859, about 14 percent of the total marketing area.

Other cities in the area with populations in excess of 5,000 are shown below:

Minnesota		North Dakota	
Bemidji	9,958	Valley City	7,809
Thief River		Devils Lake	6,299
Falls	7,151	Wahpeton	5,876
Alexandria	6,713	Grafton	5,885

In general, except for the aforementioned cities, the remaining communities throughout the proposed marketing area are under 5,000 population each.

The largest urban centers in the three South Dakota counties of Grant, Marshall, and Roberts included in the marketing area, are Milbank, Grant County (3,500); Sisseton, Roberts County (3,218); and Britton, Marshall County (1,442).

The rural nature of much of the marketing area is evident. In 37 counties less than 50 percent of the total population is classified as urban.

Because a significant portion of the sales of fluid milk by handlers who would be regulated is in relatively rural communities it is important that the marketing area be defined on a county boundary basis rather than on a basis of city boundaries.

A 43-county area was proposed by Land O'Lakes Creameries, Inc., one of the principal handlers distributing fluid milk and milk products throughout the marketing area. This area, with certain proposed modifications, generally was supported by all the producer organizations as well as by the other principal handlers in the market.

The Red River Valley Milk Producers Pool, a bargaining group representing both members of cooperative associations, and nonmembers, and 8 producer cooperative associations doing business in the area were coproponents of a proposal (supported by Land O'Lakes Creameries) to extend the proposed 43-county area to include the 7 additional Minnesota counties of Beltrami, Big Stone, Clearwater, Hubbard, Lake of the Woods, Roseau, Swift, and that part of Polk County lying east of U.S. Highway 59, all located in the northeast segment of the marketing area. They proposed also to include the three South Dakota counties of Grant, Marshall, and Roberts, located in the northeast corner of the State.

With respect to the Minnesota counties proposed for inclusion in the marketing area controversy centered chiefly

on the 4 counties of Stevens, Douglas, Todd, and Pope which were included in the 43-county area initially proposed by Land O'Lakes. Also in dispute was the inclusion of some or all of the seven-county area² proposed by Red River Valley Milk Producers Pool et al.

Concerning the area in North Dakota proposed to be regulated there was opposition to inclusion of some or all of the proposed area generally west of North Dakota Highway No. 1.

Two handlers proposed that in the event certain specified areas in North Dakota were to be regulated then the entire State of North Dakota should be included in the marketing area.

Four major handlers have bottling plant facilities located in or near the two principal urban population centers discussed above, and distribute fluid milk and fluid milk products into these localities as well as throughout the marketing area.

The Land O'Lakes Creameries, Inc., is a major distributor of bottled milk in the proposed marketing area. They operate bottling plants located at Grand Forks, N. Dak. (Grand Forks County); Thief River Falls, Minn. (approximately 60 highway miles northeast of Grand Forks in Pennington County); and Crookston, Minn. (approximately 25 miles southeast of Grand Forks in Polk County). In addition to their bottling operations, ice cream is manufactured at the Grand Forks plant and the operations at the Crookston plant include cottage cheese manufacturing.

The Land O'Lakes plants located at Grand Forks, N. Dak., Thief River Falls, and Crookston, Minn., distribute fluid milk products throughout 29 of the 41 counties of the recommended marketing area. The Thief River Falls plant distributes bottled milk directly on routes in the area and also through member plants located in various localities throughout the market. In the Minnesota counties of Roseau and Lake of the Woods, Grade A milk is received by a member plant of Land O'Lakes, some of which is bottled at this plant and distributed in the city of Roseau. A portion of the Grade A receipts at this plant is shipped to the Land O'Lakes plant at Thief River Falls where it is packaged and distributed back into the counties of Roseau and Lake of the Woods.

The Cass-Clay Creamery, Inc., a cooperative association located at Fargo, N. Dak., is engaged in the processing and distribution of fluid milk and fluid milk products as well as the manufacture of butter, dry milk powder, and ice cream. Cass-Clay has fluid milk route distribution extending into about 25 of the 41 counties in the marketing area.

The Fairmont Foods Co. located at Moorhead, Minn., processes and distributes fluid milk products and manufactures ice cream and cottage cheese. Its distribution of Grade A fluid milk extends into all but 2 of the 41 counties in the proposed area. It also has significant

sales in the South Dakota area included in the proposed marketing area, particularly around Sisseton, S. Dak.

The Fergus Dairy at Fergus Falls (Otter Tail County), Minn., processes fluid milk for bottling and manufactures butter, nonfat dry milk, and dry butter-milk.

In addition, the Fergus Dairy organization bottles all Class I milk sold by the North Star Dairy at Fergus Falls (Otter Tail County), Minn., the North Star Dairy at Detroit Lakes (Becker County), Minn., and the North Star Dairy plant at Fargo, N. Dak., which is owned by the Fergus Dairy. Further, they bottle all Grade A milk sold by B & W Dairy, Breckenridge, Wilkin County, Minn.; the Carlson Dairy, Alexandria, Douglas County, Minn.; and most of the packaged fluid milk products for the Morris Creamery Co., Morris, Stevens County, Minn. Overall, the Fergus Dairy sells in about 21 counties of the marketing area.

The four handlers described above receive milk from about 1,250 of approximately 1,360 dairy farmers who supply Grade A milk to plants which may qualify as pool plants under the recommended order. It is estimated that the milk from the 1,360 Grade A farms would amount to about 420 million pounds annually.

There are an estimated 55 bottling plants that have route disposition in the marketing area, most of which would be fully regulated under the order. One of these plants is located in South Dakota, 20 are located in North Dakota, and the remainder in Minnesota.

In addition, there are an estimated 32 plants which supply Grade A milk to plants which are distributing milk on routes in the marketing area. Except for 1 such plant located in Richland County, N. Dak., the remaining 31 plants are located in Minnesota.

There is extensive competition among handlers for fluid milk sales throughout the proposed marketing area. Of the 41 counties in the marketing area there are 13 in which each of the 4 largest handlers compete for sales, 11 counties where 3 of the 4 handlers compete, and 16 counties where 2 of the 4 do business. These handlers have 50 percent or more of the total business in 36 of the 41 counties in the proposed marketing area.

The Land O'Lakes plant at Thief River Falls supplies over half of the total sales in Kittson County, Minn. Its principal competitor for sales in this county is the Minnesota Dairy Co. located at Grand Forks, N. Dak. The Minnesota Dairy Co. is in competition with one or more of the major handlers in at least seven other Minnesota and North Dakota counties in the proposed marketing area.

In Grand Forks County, N. Dak., the Minnesota Dairy and the Land O'Lakes plants (both of which are located at Grand Forks, N. Dak.) each have about 40 percent of the total county sales. This area represents a major distribution area for the Land O'Lakes plants at Grand Forks and Thief River Falls. Over 42 percent of the combined sales

from these two plants is sold in this county.

In the county of Wadena, Minn., the four major handlers have an aggregate of 35 to 45 percent of the total distribution and a plant located at Wadena (Wadena County) is shown to have about 40 percent of the distribution. Thus, the proportion of total county sales reflected by the four handlers and the local handler is substantial. The county is 1 of the 43 counties initially proposed by Land O'Lakes as part of the marketing area.

The addition to the marketing area of Beltrami and Hubbard Counties, Minn., was supported by the Bemidji Cooperative Creamery Association, a member creamery of Land O'Lakes, which operates a distributing plant in the city of Bemidji (Hubbard County), Minn.

About 55 percent of the Bemidji plant's bottled sales are in Beltrami County and about 10 percent in Hubbard County. The plant is estimated to have at least 40 percent of the total sales in Beltrami County and about 10 percent of the total distribution in Hubbard County.

Of the approximately 250 producers supplying this plant 50 are Grade A. In the past year about 25 to 28 percent of the plant's Grade A receipts were shipped in bulk to the Land O'Lakes bottling plant located at Thief River Falls, Minn. The Thief River Falls plant in turn packages fluid milk which is distributed in Beltrami County from a plant located at Blackduck (Beltrami County) Minn. The Blackduck plant accounts for about 8 percent of the sales in Beltrami County.

A Thief River Falls plant also supplies a major portion of the packaged fluid milk sold in the two-county area by another distributor located in Bemidji. The portion of total sales in Beltrami and Hubbard Counties sold by this distributor amounts to about 8 percent and 10 percent, respectively.

Another local plant receives its packaged milk supply from the Bemidji Creamery Association and has about 8 percent of the business in Beltrami County.

The Fairmont Foods plant at Moorhead has about 8 percent of the sales in Beltrami County and 5 percent in Hubbard County. The Cass-Clay Creamery, Inc., is estimated to have 30 percent of the fluid milk sales in Hubbard County.

The county of Clearwater, Minn., is primarily rural in character (8,864 population with a density of about eight persons per square mile) and although not an area of substantial sales volume it is within a general area of cross distribution by handlers who would be regulated under the order.

A proprietary handler with a bottling plant located at Brainerd, Minn., opposed the inclusion of the Minnesota counties of Beltrami, Big Stone, Clearwater, Hubbard, Polk (east of U.S. Highway 59), and Swift, and the South Dakota counties of Grant, Marshall, and Roberts. This plant receives its regular supply of milk from 28 producers and receives supplemental milk supplies on a seasonal basis from two plants located

² The northeastern segment of the market and the 3 South Dakota counties as described.

respectively in Stearns County and Todd County, Minn.

This handler estimated that about 10 percent of the plant's Class I sales were on routes in the 43-county area initially proposed. However, with the exclusion (as proposed elsewhere in these findings) from the regulated area of Todd and Swift Counties, where the plant handler has several accounts, the percentage would be expected to be somewhat less. This could be more than offset by the fact that about 5 percent of the plant's sales are in Beltrami County, about 2 percent in the combined area of Clearwater and Polk Counties, and minor sales in Hubbard and Big Stone Counties, Minn., and Grant County, S. Dak.

A handler operating a plant located at Park Rapids (Hubbard County) Minn., also opposed the inclusion of Hubbard County. Estimates of this handler's proportion of total county sales range from 25 to over 50-percent. About 1 percent of this handler's sales is made in Becker County, from 3 to 4 percent in Wadena County and the remaining portion in Hubbard County. With the inclusion of Beltrami and Hubbard Counties for reasons discussed above, it may be expected that the plant located at Park Rapids will be fully regulated under the order. Another handler located at Nevis in Hubbard County is known to have sales in both Hubbard and Wadena Counties and probably would be fully regulated under the order. This handler did not testify at the hearing.

Some dispute centered on a six-county area in Minnesota comprising Big Stone, Swift, Douglas, Stevens, Pope, and Todd Counties.

The counties of Big Stone, Douglas, and Stevens should be included in the marketing area. At least 75 percent of the total fluid milk sales in Big Stone County are distributed by three of the four major handlers.

A proprietary plant operation located at Alexandria (Douglas County) is estimated to have at least 50 percent of the total sales in Douglas County. Although this handler is opposed to the inclusion of this county in the marketing area his total supply of milk for fluid use is obtained from two plants which are members of the Fergus Dairy organization. In addition, Fergus Dairy and Land O'Lakes Creameries are shown to have about 30 percent of the total county sales in addition to the 50 percent or more distributed by the local proprietary handler.

A similar situation exists in Stevens County where a proprietary handler who objected to the regulation of Stevens County is shown to have about 40 percent of the total county distribution. About 80 percent of this plant's receipts is from a member cooperative of the Fergus Dairy organization. An additional 30-40 percent of the total county sales is distributed by three of the four major handlers previously referred to.

Swift, Pope, and Todd Counties should not be included in the marketing area. The major distribution in these counties is from plants whose major distribution is outside the area to be regulated and

whose principal competition is from plants which would not be subject to regulation under the order.

Concerning the North Dakota counties proposed to be included in the marketing area one handler with a bottling plant located at Rugby (Pierce County), N. Dak., proposed that North Dakota Highway No. 1 serve as the western boundary of the marketing area. The handler also proposed that if any territory west of this highway were included in the marketing area, then such area should include the entire State of North Dakota. This proposal was modified at the hearing to suggest that the two counties of Rolette and Pierce, N. Dak., where this plant has a substantial volume of its total fluid milk sales, be excluded from the marketing area.

Foremost Dairies, Inc., proposed that, in the event the eight North Dakota counties of: Dickey, Eddy, Foster, Griggs, Kidder, La Moure, Stutsman, and Wells are included in the marketing area, such area should be extended to include the entire State of North Dakota.

It is concluded that nine North Dakota counties, generally comprising the western tier of the 43-county area initially proposed by Land O'Lakes, should not be included in the marketing area. These counties (listed, generally on a north to south basis) are: Rolette, Towner, Pierce, Benson, Wells, Eddy, Foster, Kidder, and Stutsman.

Inclusion of the nine-county area would bring under full or partial regulation a number of handlers whose principal competition for sales is with handlers who would not be regulated under the order.

A substantial part of the distribution in Pierce and Rolette Counties comes from the plant in Rugby (Pierce County), N. Dak. An estimated 50 to 75 percent of the total sales in Pierce County and some 25 to 35 percent in Rolette County emanate from the Rugby plant.

A handler whose plant is located at Bottineau, N. Dak. (outside and to the west of the area adopted), has about 25 percent of the business in Rolette County. This handler is the principal distributor in Bottineau County and is in competition for sales with handlers located at Minot, N. Dak.

A handler located at Maddock (Benson County) has the largest part of the total sales in Benson County.

A plant located at Cando (Towner County) accounts for about 30 percent of the sales in Towner County; the Rugby plant accounts for another 10 percent.

The counties of Pierce, Rolette, Towner, and Benson, therefore, constitute a primary sales area for these local handlers. While the area is also served to a minor extent from the Land O'Lakes plant at Grand Forks and the Fairmont plant at Moorhead, these handlers would not be disadvantaged in the absence of regulation of the four-county area. Orderly marketing does not require their inclusion in the marketing area.

The five North Dakota counties of Wells, Eddy, Foster, Kidder, and Stutsman likewise should not be included in the marketing area.

Over 50 percent of the total fluid milk business in each of the counties of Wells, Eddy, Foster, and Kidder is from plants located either within or to the west of these counties. More than half of the total sales in Stutsman County are supplied from plants so located and the remainder from plants located at Grand Forks and at Fargo and Moorhead.

Foremost Dairies proposed the exclusion of the five counties from the marketing area together with the counties of Dickey, Griggs, and La Moure so as to avoid full regulation under the order.

A proprietary handler whose plant is located at Jamestown (Stutsman County) supported the inclusion of Stutsman County in the marketing area. Seventy percent of this handler's sales is in the city of Jamestown, and the remaining 30 percent is divided between Fargo and Moorhead. About one-half of 1 percent of the sales in Stutsman County is supplied by this handler. It was not shown that the absence of regulation of Stutsman County would seriously affect the sales operations of this handler.

There is cross distribution within the area in North Dakota excluded from the marketing area between handlers who are located within or to the west of such area and those handlers whose principal business is in the area proposed for regulation herewith.

However, it is neither administratively feasible nor necessary to include in the marketing area all territory in which handlers to be regulated distribute milk.

In the matter of the proposal to include the entire State of North Dakota, there was not sufficient evidence to permit serious consideration at this time.

Territory within the boundaries of the designated marketing area which is occupied by Government (municipal, State, or Federal) reservations, installations, institutions, or other establishments shall be considered as within the marketing area. No proposal was made to exempt sales by a handler in such territory (or to any such agency) from the provisions of the order. Also, no evidence was presented at the hearing which would justify such exemption.

To avoid any question as to the point of delivery in instances where such an installation is partly within and partly without the designated boundaries, the marketing area should include the entire area encompassed by such an installation.

All producer milk received at regulated plants must be made subject to classified pricing under the order regardless of whether it is disposed of within or outside the marketing area. Otherwise the effect of the order would be nullified and the orderly marketing process would be jeopardized.

If only a pool handler's "in-area" sales were subject to classification, pricing and pooling, a regulated handler with Class I sales both inside and outside the marketing area could assign any value he chose to his outside sales. He thereby could reduce the average cost of all his Class I milk below that of other regulated handlers having all, or substantially all, of their Class I sales within the marketing area. Unless all milk of such a handler

were fully regulated under the order, he in effect would not be subject to effective price regulation. The absence of effective classification, pricing and pooling of such milk would disrupt orderly marketing conditions within the regulated marketing area and could lead to a complete breakdown of the order. If a pool handler were free to value a portion of his milk at any price he chooses, it would be impossible to enforce uniform prices to all fully regulated handlers or a uniform basis of payment to the producers who supply the market. It is essential, therefore, that the order price all the producer milk received at a pool plant regardless of the point of disposition.

Limited quantities (as provided) of Class I milk may be sold within the regulated marketing area from plants not under any Federal order. There is, of course, no way to treat such unregulated milk uniformly with regulated milk other than to regulate it fully. Nevertheless, it has been concluded that the application of "partial" regulation to plants having less association than required for market pooling would not jeopardize marketing conditions within the regulated marketing area.

The operator of the partially regulated plant is afforded the options of (1) Paying an amount equal to the difference between the Class I price and the uniform price with respect to all Class I sales made in the marketing area; (2) purchasing at the Class I price under any Federal order sufficient Class I milk to cover his limited disposition within the marketing area; or (3) paying his dairy farmers an amount not less than the value of all their milk computed on the basis of the classification and pricing provisions of the order (the latter representing an amount equal to the order obligation for milk which is imposed on fully regulated handlers).

While all fluid milk sales of the partially regulated plant are not necessarily priced on the same basis as fully regulated milk, the provisions described are, however, adequate under most circumstances to prevent sales of milk not fully regulated (pooled) from adversely affecting operation of the order and the fully regulated milk.

(2) *Milk to be priced and pooled.* The minimum Class I prices under the order are intended to apply to that milk which is produced in compliance with the Grade A inspection requirements of a duly constituted health authority and which is regularly received at plants substantially engaged in serving the fluid needs of the order market.

It is concluded elsewhere in this decision that a marketwide system of pooling proceeds for Grade A milk received from dairy farmers at pool plants is essential for the promotion of efficient and orderly marketing of milk in the marketing area.

It is also concluded that delivery performance should be the measure of whether a plant is sufficiently identified with the market to be fully subject to the pricing and pooling provisions of the order. It must necessarily apply uniformly to all plants.

The standards for pool participation are discussed below in connection with the definition of a pool plant.

Any plant regardless of its location should have equal opportunity to comply with the standards of regulation and have its producers share in the available Class I sales. Whether the plants and producers choose to supply the Minnesota-North Dakota order market will depend on the economic circumstances with which they are confronted such as prices, transportation costs and alternative outlets.

The specific standards of performance which may be used to determine which plants and what milk constitute the regular sources of supply, and therefore, should be fully subject to regulation, may be identified by appropriate definition of the terms "plant," "route," "distributing plant," "supply plant," "pool plant," "nonpool plant," "handler," "producer," "producer-handler," "producer milk," and "other source milk."

Plant definition. A plant definition is needed to assist in defining the particular operations which are to be subject to regulation and to simplify the drafting of the other order provisions. Under the "plant" definition herein provided, all of the operations conducted on the premises of an establishment operated as a single unit for the purpose of receiving milk for assembly and transfer, or for processing and packaging milk and milk products are considered as operations of a plant. A facility or establishment functioning only as a transfer point for transferring milk from one tank truck to another tank truck, or as a distribution depot for storage of packaged fluid milk products in transit for route disposition should not be considered to constitute a plant.

Because of the difference in marketing practices and functions between distributing plants and supply plants, separate performance standards are provided for them. A "distributing plant" under the order would be defined as a plant that is approved by an appropriate health authority for the processing or packaging of Class I milk and from which any fluid milk product is disposed of during the month on routes. Plants which supply Grade A milk to distributing plants are termed "supply plants."

Route definition. To assist in the identification of those plants which are to be subject to full regulation a "route" definition is provided.

The term "route" would mean the delivery of any fluid milk product classified under the order as Class I to retail or wholesale outlets other than a delivery to another plant or to a distribution point.

Fluid milk products may be moved from a milk plant to a facility such as a warehouse, loading station or storage plant. The distribution from such latter point would be considered as a route from the milk plant. To do otherwise would be inappropriate because it would consider the disposition of fluid milk products to have been made at the temporary storage facility instead of at the location at which such products are received by retail and wholesale purchasers.

Disposition by a vendor is treated as a route disposition of the plant from which such disposition occurs.

Pool plant definition. A distributing plant would qualify as a pool plant under this order any month during the period of July through February in which at least 25 percent of the Grade A receipts at such plant during the month is disposed of as Class I milk. For any month during the period of March through June such qualifying percentage is 20 percent. The lesser minimum standards for the months of March through June would provide additional flexibility for a handler in qualifying his plant for pool status during these months when milk production of producers is generally higher than the market year-round average.

A further requirement that at least 15 percent of the distributing plant's Grade A receipts be disposed of as Class I sales within the marketing area on routes is designed to include in the pool only those plants which have more than an incidental association with this market.

These performance standards are designed to permit the inclusion in the market pool of producer milk at all plants which now furnish milk for fluid use in the area. These plants are located in a region of heavy milk production relative to population. Hence, the opportunity for making fluid sales locally is limited. Many of these plants which serve the local fluid market also operate as factories for manufacturing dairy products. Less than half of the producer milk which would be regulated is now used in Class I on an annual average. There are variations in the percentages of Class I use among plants and month-to-month differences in the same plants. Hence, the minimum percentage of Class I use which each distributing plant (or plant system) must maintain to be pooled should be less than the market average use. The proposed percentages of 25 percent and 20 percent in the respective months will provide this flexibility.

Many of the distributing plants are combination plants with manufacturing facilities to process the reserve supplies of the market not needed for fluid use. In the case of a handler operating more than one distributing plant it should be provided that the combined receipts and Class I disposition of all such plants may be the basis for determining the 25 percent requirement (20 percent, March through June). This will permit more efficient utilization of plant facilities.

To prevent inclusion in the marketwide pool of a plant whose primary association is with another market, each individual plant in such a system must continue to meet the requirement that 15 percent of its total Grade A receipts be distributed as Class I milk on routes within the marketing area.

A distributing plant meeting the pooling requirements of more than one order should in general be regulated under the order covering the area in which it has the greater proportion of its distribution. However, recognition should be given to

the adverse effects of inadvertent shifting from month to month by a plant regularly associated with the Minnesota-North Dakota market.

A handler operating a pool distributing plant which would have been subject to regulation under this order and would continue to meet the pool plant standards provided herein generally should not become subject to another order unless it has disposed of more milk on routes in such other marketing area than in the Minnesota-North Dakota marketing area for 3 consecutive months. This will afford the handler reasonable notice that full regulation of his plant is shifting from one order to another and will afford him the opportunity to make adjustments in his business if he desires to do so.

If, nevertheless, the provisions of the other order require such plant to be pooled thereunder, the plant should be exempt from regulation under this order. In order that the market administrator may be fully apprised of the continuing status of such a plant, however, the operator thereof should, with respect to the total receipts and utilization or disposition of skim milk and butterfat at the plant, make reports to the market administrator at such time and in such manner as the market administrator may require and allow verification of such reports by the market administrator.

Provision should also be made to exempt from regulation under this order a plant which may, for 1 or 2 months, dispose of a greater proportion of milk in this marketing area than in the area of the order to which it has been subject to regulation if such other order contains a provision similar to that recommended herein.

A supply plant would qualify as a pool plant under this order in any month during which 25 percent or more of its receipts of Grade A milk from dairy farmers is shipped as fluid milk products to a distributing pool plant.

Demand for milk from supply plants is usually greatest during the season of low production. During the months of flush production direct farm supply of milk received at a distributing plant may be sufficient to supply the Class I outlets. During this part of the year it would be more economical to leave the milk received at supply plants in the country for manufacture into dairy products at such plants and use the milk received directly at distributing plants for Class I use.

The performance provisions should not force milk to be transported to distributing plants in the months of seasonally high production in order to maintain the eligibility of supply plants to pool.

Any supply plant, therefore, which meets the 25 percent shipping requirements as described for each of the months of August through November would be granted pool status during the following months of March through June without specified shipments. Such pool status would be automatic unless the operator of such plant notifies the market administrator in writing before the first day of any such month that he desires to withdraw his supply plant from

pooling. The plant would thereafter be a nonpool plant until it again met the shipping requirements set forth above.

In some markets reload points under the bulk handling method serve a function similar to that of a supply plant. The extent to which separate reloading facilities are now employed in moving bulk milk to this market is not clear from the record. In the absence of specific marketing data concerning reload points it is concluded that a definition of reload point should not be included in the order. Such a definition and its application to pricing, location differentials, and performance requirements may be considered at some future time if it appears that such a provision would facilitate the orderly marketing of milk under the order adopted herein.

Nonpool plants. A plant which supplies fluid milk to the market but in a lesser volume than that required to qualify as a pool plant under the standards set forth herein would be a nonpool plant. The term nonpool plant is further broken down to define such categories as "other order plant," "producer-handler plant," "partially regulated distributing plant," and "unregulated supply plant."

Handler definition. The impact of regulation under an order is on handlers. As herein provided, the definition includes (a) any person (including a cooperative association) in his capacity as the operator of one or more pool plants; (b) a person operating a partially regulated distributing plant; (c) a cooperative association with respect to producer milk diverted from a pool distributing plant to a nonpool plant for its account; (d) a cooperative association with respect to its members' milk delivered in a tank truck owned, operated by, under contract to, or under its control from the farm to a pool plant of another handler; (e) a person in his capacity as the operator of an other order plant; and (f) a producer-handler.

Designating as handlers the operators of the various types of plants that may be associated with the market is necessary so that the market administrator may require of them the reports to determine the regulatory status of the plants and the extent of the operators' obligations, if any, to the producer-settlement fund.

The record is not clear whether there is any governmental agency or institution (Federal, State, county, or municipal) which dispose of fluid milk products solely for use on its own premises or to its own facilities. If such an institution does exist, it should be exempt from regulation. This may be effected by specific exemption of such persons from "handler" status under the order.

While such an exempt institution would have no obligations to report to the market administrator, the order should provide that if milk is purchased from a pool plant by such an institution, such sales by the pool plant would be classified as Class I. Likewise, any disposition of milk by such an institution to pool plants would be classified as Class II.

Milk which would be surplus to the fluid requirements of such institutions would not be a source of supply which could be depended upon to fulfill the regular requirements of the market. It would bear the same relationship to the marketwide pool as does the surplus of producer-handlers, and it should be allocated in the same manner as a receipt from a producer-handler. Accordingly, milk received from such institutions should receive a Class II classification.

Cooperative associations whose members are suppliers of milk for the market here under consideration generally assume the responsibility of balancing their buying handlers' supplies with such handlers' needs for fluid milk. Milk not needed for fluid uses generally can be most economically handled by diversion directly to manufacturing plants. To facilitate such handling, a cooperative is accorded handler status for milk which it causes to be diverted to nonpool plants for its account.

A cooperative should be designated as a handler with respect to any milk delivered from the farm to a pool plant of another handler in a tank truck owned, operated by, under contract to, or under the control of such cooperative. This will afford a practicable basis of accounting for such milk. In addition, it will provide added flexibility to a cooperative's operations in allocating its members' milk among handlers.

If a tank truck picking up milk at the farm is operated under the supervision of a cooperative association, it is the association that verifies the weight and butterfat content of each producer's milk. Handlers have no control over and generally take no part in checking the weights and butterfat tests of milk at the farm. In some instances, handlers may not even know from which farms their milk is received.

The milk delivered by the cooperative as a bulk tank handler would be considered as a receipt of producer milk by the operator of the pool plant at which it was physically received. The pool plant operator's obligation for such milk to the producer-settlement fund, to the administrative fund and to the cooperative would be the same as for producer milk received directly from the farm of an individual producer.

In some instances, as discussed elsewhere in this decision (see the discussion concerning shrinkage allocation under heading "b. Classification and allocation of milk"), differences between the quantities of producer milk determined at the farm and ascertained as physically received by the operator of the pool plant would be considered a receipt of producer milk by the cooperative at the location of the pool plant. For such differences, the cooperative (instead of the pool plant operator) would be required to settle with the producer-settlement and administration funds.

Producer, diverted milk, and producer milk definitions. The term "producer" should include dairy farmers who regularly deliver Grade A milk to plants which are supplying fluid milk to the

marketing area in the proportions specified in the pool plant standards adopted herein. Accordingly, the term "producer" should distinguish between farmers who meet the sanitary requirements for the production of Grade A milk and other dairy farmers whose milk may be qualified only for use in the manufacture of dairy products. Grade A milk intended for fluid consumption in the marketing area is required to be produced in compliance with sanitary standards of the States of Minnesota, North Dakota, or South Dakota, and/or county, municipal, or other duly constituted health jurisdictions in the area.

"Producer milk" should be defined to include all skim milk and butterfat in Grade A milk received at a pool plant directly from a dairy farmer or from a cooperative association in its capacity as a handler. Producer milk would also include milk diverted under certain conditions from a pool plant to a nonpool plant by either a handler operating a pool plant or by a cooperative in its capacity as a handler diverting milk for its account. This definition will facilitate application of the various order provisions by specifying that milk for which each handler shall be responsible for paying the class prices established by the order according to his use of milk.

This definition will require the handler operating the pool plant at which milk is received from a cooperative as a handler pursuant to § 1060.10(c) to pay the cooperative at the uniform price the same as on milk received directly from producers.

A "diverted milk" definition is provided for easy reference throughout certain other provisions of the order.

Although a producer establishes his affiliation with the market through delivery of milk to a pool plant his milk occasionally may not be needed at pool plants. This is due to the day-to-day and seasonal variation in both production and sales. The variation in day-to-day sales is influenced in large part by the fact that most bottling operations are not conducted on a seven-day-a-week basis. Such milk can sometimes be used efficiently by diverting it directly from the farm to a nonpool manufacturing plant. In such cases the movement of such milk to a nonpool plant should be facilitated.

The order should provide that a dairy farmer whose Grade A milk is received at a pool distributing plant on at least three days during the month may retain his producer status with respect to that portion of his milk diverted to a nonpool plant for the account of a handler on any of the remaining days of such month. For the months of March through June when supplies in the market are usually the heaviest, such diversion of milk of a producer may be on an unlimited basis.

Unlimited diversion, however, is neither necessary nor desirable during the other months of the year when milk of producers is most needed to supply the Class I needs of the market. Proponents recommended that during the period of July through February, a cooperative

association be permitted to divert for its account member producer milk not in excess of 50 percent of the milk physically received from its producer members at pool distributing plants during the month. This limitation appears reasonable and should be adopted. Similarly, milk diverted by the operator of a pool distributing plant for his account would be limited to 50 percent of the quantity of producer milk physically received at his plant during the month. In all cases, however, the 3-day delivery requirement must be met by each of the producers whose milk is diverted if producer status is to be retained.

The percentage basis for computing limits on milk diversions will provide the flexibility needed by cooperatives and pool handlers to serve the market efficiently. It will not affect the pool adversely.

Should milk receipts from dairy farmers be diverted in excess of the limit set forth herein the diverting handler must specify the dairy farmers whose milk was over diverted and all of the milk of such dairy farmers not received at a pool plant during the month shall not be producer milk in such month.

Milk diverted to a nonpool plant will be considered as received by the diverting handler at the location of the plant to which diverted, for purposes of pricing such milk.

In order to preclude duplicate regulation of milk, provisions should be made for excluding as producers, persons whose milk is diverted to a plant at which such milk is subject to the price and payment provisions of any other order.

Diversion of producer milk to the plant of a producer-handler should not be considered a diversion.

Producer-handler definition. The term "producer-handler" should apply to any person who produces milk on his own farm(s) and operates a plant from which fluid milk products are distributed on routes in the marketing area and who receives no milk during the month from other dairy farmers or from sources other than pool plants and not more than 50,000 pounds of fluid milk products (including the milk equivalent of nonfluid products which are reconstituted into fluid milk products) from any source.

The producer-handler maintains control of his milk from its source at the farm until its ultimate disposition. He is, therefore, generally in a position to adjust his farm production closely to the needs of his fluid milk business and, in turn, assumes the burden of maintaining the reserve supply of milk associated with his fluid milk operations and of disposing of any surplus he may produce. When an individual operates a dairy farm and a fluid milk business in such manner it has not been necessary to require him to account for milk produced on his own farm at a particular minimum price.

The competition of a producer-handler with regulated handlers in this market makes it appropriate that exemption from pooling and pricing be contin-

gent upon his meeting certain requirements. Such requirements are necessary to assure that his sales of milk will not have a disruptive effect on the orderly marketing of milk in the regulated market.

The producer-handler should not, with minor exception, be permitted to receive fluid milk products from any source except his own farm production. If a producer-handler were permitted to obtain milk from unregulated sources, this would allow him an undue advantage compared to regulated handlers. Other handlers incur obligations to the pool on unregulated milk used in Class I disposition, but producer-handlers are exempt from pooling. Further, such use of unregulated milk by producer-handlers would be inequitable to producers. It would permit use in the fluid market of unregulated milk without such milk being subject to the order's allocation and payment provisions, which provide proper apportionment to producers of returns from Class I dispositions.

A limitation of 3,000 pounds of fluid milk products each month which may be received from sources other than his own farm production will permit the producer-handler to purchase supplemental milk from pool plants and will provide certain flexibility in the use of nonfluid milk products which may be reconstituted into fluid milk products.

Proponents suggested a limitation of 50,000 pounds as the amount of fluid milk products which might be received by a producer-handler. Such a figure is unreasonable. In this market the producer-handlers operate small family size units. The 3,000 pounds provided herein will be ample to meet the needs of the producer-handlers for supplemental supplies.

Receipts of milk at a pool plant from producer-handlers should be considered as a receipt of other source milk. This procedure is appropriate, otherwise producer-handlers who do not share their own Class I sales would share in the Class I sales of other handlers in the market. At the same time the producer-handler would not be bearing proper share of the reserve supplies associated with such Class I sales.

Various business arrangements, involving superficial association with the milk production operation, may be used to acquire an appearance of true producer-handler operation. To preclude the use of such devices the order should provide that a producer-handler furnish proof satisfactory to the market administrator that (a) the care and management of all the dairy animals and other resources necessary to produce the entire volume of fluid milk products handled (except for milk which is permitted to be received within the 3,000 pound limitation) is the personal enterprise of and at the personal risk of such person, and (b) the operation of the processing and distributing business is the personal enterprise of and at the personal risk of such person. A producer-handler would be required to make such reports of his receipts and utilization as the market administrator deems necessary to verify the

status of such person's operation and to facilitate verification of transactions with other handlers.

Other source milk definition. A definition of "other source milk" is necessary to facilitate the application of the order to the various categories of receipts at a regulated plant.

Other source milk should include all skim milk and butterfat contained in or represented by (a) fluid milk products utilized by the handler in his operation (except producer milk, fluid milk products received from pool plants, and fluid milk products in inventory at the beginning of the month), (b) all manufactured dairy products from any source (including those produced at the plant) which are reprocessed or converted into another product during the month, and (c) any disappearance of products other than fluid milk products which are not otherwise accounted for under the order.

In order to verify the actual utilization of milk received from producers, it is necessary that the market administrator be in a position to reconcile all receipts of milk and dairy products with the disposition records of the plant. If such records cannot be reconciled, the handler must be held responsible for the shrinkage or the overrun which occurs as a result of the discrepancy between records of receipts and disposition. Otherwise, the handler with improper records would be in a position to gain an advantage over his competitors who properly account for all milk and dairy products received. It is equally necessary that the handler be required to account for all nonfluid dairy products received in a form in which they can be converted into Class I products. Otherwise, a handler by failing to keep records of receipts of nonfat dry milk and similar products which can be reconstituted into skim milk or other fluid products could gain a competitive advantage over other handlers in the market.

b. Classification and allocation of milk. A classified use plan should be established to insure that all milk and milk products handled by handlers fully or partially regulated under the order are fully accounted for according to the various uses in such handlers' plants. Milk is disposed of in the market in a wide variety of forms, representing different proportions of butterfat and skim milk components of milk. These proportions may be greatly changed from the proportions of butterfat and skim milk in the milk as first received. Accounting for milk and milk products on a skim milk and butterfat basis, and pricing such skim milk and butterfat in accordance with the form in which (or the purpose for which) used is the most appropriate means of securing complete accounting on all milk involved in the market transactions.

This accounting system common in Federal orders, will insure uniformity in application of the classification and pricing provisions of the order to all handlers supplying and/or distributing milk in the market.

Fluid milk product. A definition of "fluid milk products" is provided in the

order to implement the drafting of the classification provisions of the order.

Under the proposed definition herein provided, the term "fluid milk product" includes milk, skim milk, flavored milk, concentrated milk, buttermilk, milk drinks (plain or flavored), sour cream and sour cream products labeled Grade A, cream or any mixture in fluid form of cream and milk or skim milk. The term includes these products in fluid, frozen, fortified (including "dietary" milk products) or reconstituted form but does not include sterilized products in hermetically sealed containers and such products as yogurt, eggnog, aerated cream in dispensers, ice cream mix, frozen dessert mix, and evaporated or condensed milk or skim milk.

Classes of milk. The fluid milk products which are classified in Class I are required by the appropriate health authorities in the marketing area to be made from milk or milk products procured from Grade A approved sources. The extra cost incurred by producers in producing quality milk and in getting it delivered to the market in the condition and in the quantities needed by the market necessitates a price for milk used in Class I products somewhat above the price of milk used in manufactured products. The higher price must be at a level which will provide sufficient incentive to producers to encourage the production of the quantity of milk needed for the Class I products plus the necessary reserve to cover daily fluctuations in market demand.

Milk in excess of the market's Class I needs at any time must be disposed of for use in manufactured products. These products are less perishable than fluid milk products and they compete on a national market with similar products made from unapproved milk. Milk so used must be classified as Class II milk and priced according to its value in such outlets.

The products included in Class I may be unmodified or may be modified by the addition of nonfat dry milk, as is commonly practiced in the case of skim milk drinks and buttermilk, for example. On the other hand the product may be concentrated by evaporation as in the case of concentrated whole milk for fluid consumption.

Products such as evaporated or condensed milk which are either packaged in hermetically sealed containers or which are used in the manufacture of other milk products should be classified as Class II products. Milk disposed of for Class II uses is classified on the basis of its initial disposition. When any Class II product is reprocessed or reused in another product it should be treated as a receipt of other source milk. This procedure minimizes the assessment of reclassification charges since priority of assignment under the accounting procedure is given to current receipts of fluid milk. Concentrated milk which may be restored to its original form in the home through the addition of water, as well as reconstituted fluid milk products, compete for the same Class I sales as whole milk. Accounting for such products on the basis of original volume, including all

the water originally associated with the solids, is necessary to insure equity among handlers and to return to producers the full use value of their milk.

Fortified fluid milk products present a special classification and accounting problem. Fortification of fluid milk products customarily is accomplished by the addition of nonfat dry milk to fluid milk or skim milk to yield a finished product of higher nonfat milk solids content than that of an equivalent amount of whole milk. Reconstitution, on the other hand, involves the process of "floating" concentrated milk solids in water to yield a weight of product approximately equal to the weight of milk from which the concentrated product was first made by the removal of water.

To maintain proper accounting for fortified fluid milk products the nonfat milk solids added to such items should be converted to their skim milk equivalent. This is necessary to insure uniformity of application of the accounting system. It is not necessary, however, to price as Class I all the water originally associated with the added solids. The additional solids used in fortification cannot be considered as displacing producer milk in Class I except to the extent that the volume of product is increased. The addition of solids to make a more desirable product may in fact increase the sales of producer milk, and in any event would not displace producer milk in Class I beyond the minor increase in volume which results.

In the case of fortified fluid milk products the skim milk to be classified as Class I milk should be only that contained in an equal volume of unmodified product of the same nature and butterfat content, excluding the dry weight of any nonmilk additive such as flavoring, etc. The skim milk equivalent of the nonfat milk solids not classified as Class I milk should be classified as Class II milk.

Handlers maintain inventory of milk and milk products which must be considered in accounting for receipts and utilization. The accounting procedure will be facilitated by providing for Class II classification on only that portion of ending inventory of fluid milk products which is in bulk storage in the plant. All fluid milk products on hand in packaged form in the plant should be classified as Class I.

This will facilitate handlers' reconciliation of inventory products with that of the market administrator. Products on truck on or off the premises and products in distribution outlets or in transit may be considered by some handlers as disposed of and therefore, would be classified by them as Class I. The treatment of products in distribution points or in transit differs with the individual handlers. It is not uncommon for handlers to consider products on loaded trucks as still in inventory.

The classification as Class I of all packaged fluid milk products will result in such products which are on hand at the end of the month, either in the plant, on loaded trucks, or in distribution points, being classified uniformly as Class

I regardless of whether they are considered as being in inventory or as being already disposed of.

Packaged fluid milk products on hand on the effective date of the order, however, should be classified as Class II, since these items were not classified and priced as Class I in the prior month.

To insure that all handlers pay the current month's Class I price for producer milk disposed of during the month, it is provided that if the Class I price increases, the handler will be charged the difference between the Class I price for the current month and the Class I price for the preceding month on the quantity of ending inventory assigned to Class I in the preceding month. Likewise, if the Class I price decreases, the handler will receive a corresponding credit.

The allocation section should provide that inventory of packaged fluid milk products on hand at the beginning of the month be subtracted from Class I utilization before making the other assignments therein provided.

Inventory of fluid milk products in bulk form will be subtracted under the allocation procedure, from any available Class II disposition in the following month prior to the allocation of current fluid milk receipts. The higher use value of any fluid milk product in inventory, which is allocated to Class I milk in the following month, should be reflected in returns to producers. This is accomplished by a reclassification charge on such milk at the difference between the Class II price of the preceding month and the Class I price of the current month.

Inasmuch as a handler may receive milk from other order plants and unregulated supply plants as well as producer milk or milk from other pool plants, any of these sources may contribute to his inventory situation at the end of the month. The assignment provisions herein adopted insure that milk from nonpool sources assigned to the surplus class in the prior month (and thus available for reclassification under the inventory allocation procedure this month) will either have been so assigned pro rata with producer milk or is milk which by its very nature is surplus. Furthermore, any other order milk so assigned will have been priced at the comparable surplus class in the order of origin. In either case, therefore, the reclassification charge is appropriate.

Skim milk and butterfat in fluid milk products dumped or disposed of by a handler for livestock feed should be classified as Class II milk. Such outlets often represent the most efficient means for disposing of surplus milk. Transportation and handling costs are such that it may be uneconomical to ship relatively small quantities of unneeded milk to trade outlets. In the case of route returns of such products as homogenized milk and chocolate milk, it is difficult and impractical to salvage the butterfat for further use. Such butterfat which is not salvageable should be classified as Class II when dumped or disposed of for livestock feed.

It would not be practicable to permit in an unlimited manner the dumping of skim milk and butterfat by pool plant handlers. Neither would it be appropriate to classify such skim milk and butterfat, for which no better outlet is available, in other than Class II. Accordingly, the order should clearly specify a Class II classification for skim milk and butterfat dumped, provided that the market administrator is notified in advance and afforded the opportunity to verify the dumping.

Waste and loss of skim milk and butterfat experienced in plant operations are referred to as "shrinkage." Since shrinkage represents disappearance of milk for which the handler must account but for which no direct return is realized, it should be considered as Class II milk to the extent that the amount is reasonable and is not the result of incomplete or faulty records.

The maximum shrinkage allowance in Class II at each pool plant should be 2 percent of producer milk (except that diverted to a nonpool plant or for which a cooperative association is the handler pursuant to § 1060.10(c)), plus 1.5 percent of producer milk from a cooperative as a handler and bulk fluid milk products from pool plants of other handlers and less 1.5 percent of bulk fluid milk products transferred to other plants (except pool plants of the same handler). A 1.5 percent shrinkage allowance would be allowed on bulk fluid milk products received from other order plants and unregulated supply plants (exclusive of the quantity for which Class II utilization is requested by the handler).

As provided elsewhere in this decision, a cooperative would be the handler for milk delivered from producers' farms to the pool plant of another handler in a tank truck owned and operated by or under contract to such cooperative. When a cooperative is a handler under such conditions, the operator of a pool plant receiving this bulk tank milk directly from the farm would settle with the pool and the cooperative for such milk in the same manner as a receipt from producers. However, the full 2 percent allowance for shrinkage would be permitted the handler only if he is purchasing the milk on the basis of farm weights and has so notified the market administrator. Otherwise, the maximum shrinkage in Class II allowed the handler on such milk would be 1.5 percent, and the cooperative would be responsible for any difference between the gross weight of producer milk received in the tank truck at the farms and that delivered to pool plants. This procedure is followed in a number of other Federal orders and provides a reasonable basis for the allocation of the shrinkage allowance in those instances wherein the cooperative is the responsible handler with respect to milk picked up at producers' farms in bulk tank trucks.

In those instances in which a pool plant operator is not purchasing farm tank milk (from a cooperative as a handler) on the basis of farm weights, any difference between the quantities of producer milk determined at the farm and ascertained as physically received by the

operator of the pool plant would be considered a receipt of producer milk by the cooperative at the location of the pool plant. The cooperative would report such differences, which may reasonably be expected to be within 0.5 percent of the quantity of producer milk determined on the basis of farm weights during the month, to the market administrator for inclusion in the monthly pool computation. Up to 0.5 percent of the total producer farm tank milk involved would be reported and pooled as Class II; any such difference in excess of the maximum allowable Class II shrinkage of 0.5 percent would be Class I. The cooperative would be responsible for settling with the producer-settlement fund for the total quantity of shrinkage it reported. If the quantity of bulk tank milk physically received at a pool plant from a cooperative during the month is the same as or greater than the sum of the farm weights, the cooperative would have no settlement to make with the producer-settlement fund on such milk. However, in those instances wherein the quantities of milk physically received at pool plants are greater than the farm weights, the pool plant operator's obligation to the cooperative and the producer-settlement fund would be on the basis of the weights ascertained at his plant.

Plants which are operated in a reasonably efficient manner and for which accurate records of receipts and utilization are maintained should not have plant losses in excess of the maximums provided. Any shrinkage in excess of the maximums should be classified as Class I milk. This is reasonable and necessary to strengthen the classified pricing plan and will tend to encourage maintenance of adequate records and efficient handling of milk.

It is appropriate to limit the volume of unregulated supply plant milk and other order milk that may be classified in Class II as shrinkage since these types of receipts are allocated pro rata to class uses along with the quantities received from pool plants and producers. Under the allocation system provided, such other source milk will share with producer milk in any shrinkage allocated to Class I when the specified Class II shrinkage limitations are exceeded. No specific shrinkage limit is necessary on unregulated or other order milk that does not share a pro rata assignment and thus is allocated first to Class II uses, since the allocation procedure insures assignment of such milk to Class II in an amount at least equal to the shrinkage that may be associated therewith.

To insure an equitable assignment of total shrinkage to the two categories of receipts (i.e., receipts for which there is a percentage limitation for Class II shrinkage assignment and receipts for which there is no such limitation), the total shrinkage should be prorated to these two categories.

Transfers. Fluid milk products may be disposed of to other plants for processing. It is necessary, therefore, to provide specific rules so that the classification of such transfers may be determined under this order.

Fluid milk products transferred by a handler to a pool plant of another handler should be classified as Class I milk unless utilization as Class II milk is claimed for both plants on the reports submitted for the month to the market administrator. However, sufficient Class II utilization must be available at the transferee plant for such assignment after prior allocation of receipts of unregulated milk, other order milk, inventory, and appropriate assignment of shrinkage. Moreover, if other source milk of the type to which surplus value inherently applies (such as nonfat dry milk) has been received at the transferor plant during the month, the skim milk or butterfat in fluid milk products involved in such transfer should be classified so as to allocate the least possible Class I utilization to such other source milk. In the case of a transferor handler who received other source milk from an unregulated supply plant or other order plant, the transferred quantity, up to the total of such receipts, should not be Class I to a greater extent than would be applicable to a like quantity of such other source milk received at the transferee plant.

Fluid milk products transferred from a pool plant to a producer-handler and such products transferred or diverted in packaged form to a nonpool plant (not an other order plant) should be classified as Class I milk.

Fluid milk products transferred or diverted in bulk to a nonpool plant that is neither an other order plant nor a producer-handler plant which is located not more than 300 miles by the shortest highway distance as determined by the market administrator from the nearer of the city halls of Fargo or Grand Forks, N. Dak., shall be classified as Class I milk unless certain conditions are met: The operator of the nonpool plant, if requested, should make his books and records available to the market administrator for the purpose of verifying the receipts and utilization of milk in such nonpool plant. Provision for verification by the market administrator is reasonable and necessary to insure proper application of the classification procedures prescribed in the order.

The skim milk and butterfat so diverted or transferred should be assigned following the assignment of utilization at such nonpool plant to receipts of packaged fluid milk products from pool plants and other order plants. This assignment is in accord with the classification of such packaged products to Class I at the plant of origin. Other utilization at the nonpool plant should be assigned on the basis that any Class I utilization disposed of on routes in the marketing area should be first assigned to the skim milk and butterfat in the fluid milk products so transferred or diverted to the nonpool plant from pool plants, and next pro rata to receipts from other order plants and thereafter to receipts from dairy farmers who the market administrator determines constitute the regular source of supply of Grade A milk for such nonpool plant. Further, any Class I utilization disposed of on routes in the market-

ing area of another order should be first assigned to receipts from plants fully regulated by such order, and next pro rata to receipts from pool plants and other order plants not regulated by such order and thereafter to receipts from dairy farmers whom the market administrator determines constitute the regular source of supply of Grade A milk for such nonpool plant. The remaining quantities of skim milk and butterfat transferred to the nonpool plant should be assigned to the skim milk and butterfat in any transfers of milk, skim milk, and cream in bulk from the nonpool plant to pool plants, and should be classified as if it were a direct transfer from one pool plant to another pool plant with Class II utilization indicated. If this results in transfers from pool plants of two or more handlers being classified as Class I such classification should be shared pro rata between the handlers unless, at or before the time of reporting, the plant operators indicate agreement on a different sharing of such Class I classification.

If such assignment does not cover all transfers to the nonpool plant, assignment of additional quantities to Class II use in the nonpool plant would be limited to available Class II utilization in the plant and similar use of any shipments from the nonpool plant to other plants (pool or nonpool) excluding any duplication of such classification of milk received at the nonpool plant from other pool plants or other order plants.

The treatment of transfers provided serves to coordinate classification of milk disposed of to nonpool plants with milk disposed of by other order plants to the same nonpool plants.

Fluid milk products transferred or diverted to a nonpool plant that is neither an other order plant nor a producer-handler plant which is located more than 300 miles by the shortest highway distance as determined by the market administrator from the nearer of the city halls of Fargo or Grand Forks, N. Dak., should be Class I milk.

Within the 300-mile range the manufacturing facilities are adequate to insure the orderly disposition of the market's reserve supply and milk moving a greater distance can be presumed to be for Class I uses. Hence, on shipments beyond such distance with the following exception, it is not necessary and it is not administratively feasible for the order to provide classification on the basis of verified utilization in the nonpool plant to which shipment is made.

While it is not feasible to move whole milk long distances except for Class I use, cream may be shipped a considerable distance for use in ice cream and other Class II items. Cream transferred as Class II (and so reported by the transferring handler) to a nonpool plant located beyond the 300-mile range, therefore, should be so classified without requiring verification of its use by the market administrator at the nonpool plant, provided that prior to shipment the market administrator is given sufficient notice to allow him to verify the shipment, and the container of such

cream is tagged as being for manufacturing purposes only, and this is so invoiced.

Such a provision will assure the availability of outlets for surplus cream irrespective of distance from the market and at the same time reduce the expense of verifying the use of such cream.

In the case of fluid milk products transferred from pool plants to fully regulated plants under another order, specific rules should apply to coordinate the classification under both orders. Specifically, fluid milk products transferred to an other order plant in excess of receipts from such plant in the same category (packaged, bulk designated for surplus disposal, or bulk milk not so designated) should be classified in the classes to which allocated as a fluid milk product under the other order. If the operators of both the transferor and transferee plants so request in the reports of receipts and utilization filed with their respective market administrators, transfers in bulk form should be classified as Class II to the extent that Class II utilization (or comparable utilization under such other order) is available for such assignment pursuant to the allocation provisions of the transferee order. If, however, information concerning the classification to which allocated under the order is not available to the market administrator for purposes of establishing classification pursuant to this paragraph, classification should be as Class I, subject to adjustment when such information is available. For these purposes, also if the transferee order provides for more than two classes of utilization, milk allocated to a class consisting primarily of fluid milk products shall be classified as Class I, and milk allocated to other classes should be classified as Class II.

If the form in which a fluid milk product is transferred to an other order plant is not defined as a fluid milk product under such other order, classification should be in accordance with the form in which it leaves the transferor plant. This would be the case where the classification of a product differs in the shipping and receiving markets and, accordingly, identical classification will not be possible. These differences exist primarily because the health authorities in different areas have varying requirements with respect to the use of Grade A milk in some milk products. Hence, the order provisions must be designed to accommodate the differences in classification which might exist in this order compared to any other market from which such product is received.

Milk from nonpool plants and from other order plants. It is necessary to provide for integration into the regulatory plan of the order, milk which is disposed of in the marketing area, but which is not subject to classified pricing under any order or which is regulated under another order.

Such milk may enter the market in two ways. It may be distributed directly on routes by a partially regulated plant or by a plant subject to regulation under another order. It may also be received as other source milk by a fully regulated

plant. In the latter instance it may consist of receipts from another order plant, from an unregulated supply plant, or even from manufacturing plants or dairy farmers whose milk is not eligible for Grade A milk. It might also consist of the surplus of a producer-handler or of nonfat milk solids which are reconstituted into a fluid milk product.

Regardless of the source of the milk or its method of entry into the market, provision must be made for treating such milk in a manner which will protect, to the extent consistent with the Act, the regulatory plan of the order. A uniform program for treating such milk was made effective by amendments to all orders which were in effect on July 1, 1964, following the decision of the Assistant Secretary of June 19, 1964 (29 F.R. 9214).

The findings and conclusions of such decision relating to this matter are equally applicable to the Minnesota-North Dakota marketing area. The June 19, 1964, decision therefore is hereby adopted as a part of this decision.

The conditions described therein as generally applicable to all marketing areas under regulation at that time, are equally applicable to the Minnesota-North Dakota marketing area.

It is necessary, therefore, that the provisions of this order relating to the integration of other source milk do not differ materially from similar provisions of other orders. The provisions herein recommended are identical in principle to the general amendments made to all orders following the June 19, 1964, decision of the Assistant Secretary, and are recommended for adoption in the interest of continuing a coordinated program among markets and providing for the uniform treatment of regulated milk in the several markets.

This decision sets forth in detail the procedure to be followed in allocating over a handler's total utilization the milk that may be received from the several types of nonpool sources. It provides for a payment into the producer-settlement fund on unregulated milk which is allocated to Class I.

This decision also prescribes the obligations of a partially regulated distributing plant with respect to record keeping and reporting, as well as defining the circumstances under which such a plant would be required to make payments to the producer-settlement fund.

c. *Determination and level of class prices.* In order to promote and maintain orderly marketing conditions in the Minnesota-North Dakota marketing area, minimum Class I and Class II prices for producer milk must be established at levels which will reflect economic conditions affecting the market supply and demand for milk and its products and tend to obtain an adequate supply of milk to meet the fluid needs of the market plus a necessary reserve for fluctuations in demand. Of the estimated 420 million pounds of Grade A milk received annually by handlers in the market who are expected to be fully regulated, less than half of such milk is required for fluid uses. There is, therefore, no indication that supplies are inadequate or tending to become inadequate

for the Minnesota-North Dakota market.

The level of Class I price must not be so high as to attract additional supplies to the market under current marketing conditions where milk supply for fluid needs is entirely adequate. Such over-attraction of milk supplies would tend to shift agricultural resources into the production of unnecessary and uneconomic surpluses which would depress the blend price to producers. Yet the price must exceed the manufactured milk price by a sufficient amount to encourage producers to produce milk of the high quality required for the fresh fluid needs of the market.

Class II prices should be established at a level which will assure a market for milk delivered by producers in excess of Class I needs. Such prices should not encourage the development of milk supplies for use as Class II products.

Class prices as well as uniform prices to producers should be computed and announced for milk of 3.5 percent butterfat content. This is the prevailing practice among handlers in the market.

Class I price. For an 18-month period beginning with the effective date of the order, the Class I price for milk of 3.5 percent butterfat content should be established at an annual level of \$0.86 per hundredweight higher than the average price paid for manufacturing grade milk in Minnesota and Wisconsin during the preceding month. For the period through April 1968, 20 cents should be added to such differential.

The Class I price for plants located 70 miles or more from Grand Forks or Fargo, whichever is nearer should be adjusted for location. The location of each plant should be measured from the City Hall in Fargo, N. Dak., and Grand Forks N. Dak., and the adjustment based on the smaller of such measured distances. The location adjustment should be 10 cents if the plant is 70 miles or more but less than 80 miles from the respective city hall plus an additional 1.2 cents for each 10 miles or fraction thereof in excess of 80 miles. Such location adjustments, which are discussed in detail below, should be added to the Class I price if the plant is located in North or South Dakota and should be subtracted from such price if the plant is located in Minnesota.

The manufacturing milk price in Minnesota and Wisconsin to be used as the basic formula for determining Class I prices is reported by the Department of Agriculture each month and for the purpose of pricing Class I milk should be converted to a 3.5 percent butterfat basis using a butterfat differential equal to 12 percent of the wholesale price of butter at Chicago. The price so adjusted is used as a basic formula for establishing Class I prices in most Federal milk orders.

The purpose for which such basic formula price is used in other order markets is pertinent to establishment of proper Class I price levels in the recommended order market. This pricing factor (Minnesota-Wisconsin manufacturing grade milk pricing series), common

to most milk orders, is an appropriate measure of the general economic factors underlying the price for milk used in manufactured dairy products. Because the market for most manufactured dairy products is nationwide, prices for such products and the milk used in them reflect, to a large extent, changes in general economic conditions affecting the supply and demand for milk. By using manufacturing milk prices as a formula factor in determining Class I prices it is possible to reflect such general economic factors automatically in the Class I price.

Since this marketing area is located in a region of heavy milk production in relation to population, there is considerably more milk manufactured in the area than is disposed of for Class I uses. In order to compensate producers for producing milk of Grade A quality which is needed for Class I sales, the Class I milk price must be somewhat higher than producers of manufacturing grade milk receive. However, if the Class I price more than compensates producers for the extra cost of Class I milk production, they are encouraged unnecessarily to shift from manufacturing grade milk production to the production of Grade A quality milk. If additional Grade A milk supplies cannot be disposed of in Class I outlets, such milk must be utilized in manufactured dairy products at a price competitive with dairy products made from manufacturing grade milk. Because dairy products made from Grade A milk bring no premium in the market place over those made from manufacturing grade milk, farmers producing Grade A milk for use in such products can obtain no higher price for Grade A milk so used than the prevailing rate for manufacturing grade milk. Hence, in establishing a Class I price, particularly for this area where large quantities of Grade A milk in excess of those needed for Class I sales already exist, it is essential that the Class I price be maintained at a level which will not encourage greater supplies of Grade A milk to be produced, thereby adding only to the volume which must be manufactured.

Since the Class I price must be so closely attuned to the manufacturing milk price, the only feasible method of accomplishing such alignment is to base the Class I price directly on such manufacturing milk price.

The proposed Class I price together with the proposed Class II price (as described later) and a Class I utilization of 45 percent would have given a market blend price of \$3.84. This price is in excess of prices paid producers by the handlers in 1965 by an amount which reflects the increases in milk prices which have occurred on a national level since that time.

The Cass-Clay Creamery is located in Fargo and the Fairmount Foods plant in Moorhead. The Fergus Dairy plant in Fergus Falls, Minn., is about 55 miles to the southeast. One of Land O'Lakes' principal bottling plants is located at Thief River Falls, Minn., about 116 miles

north of Fargo. None of the handlers operating these plants pays its producers on a strictly classified price plan. The average price per hundredweight of 3.5 percent milk paid by each of them to their producers during 1965 was \$3.54 by Cass-Clay, \$3.66 by Fairmont Foods, \$3.52 by Fergus Dairy and \$3.57 by Land O'Lakes. The Minnesota Dairy Co. of Grand Forks is one of the principal handlers in this area. The price per hundredweight paid its producers for milk containing 3.5 percent butterfat for 1965, was estimated to be \$3.85 on the average, plus an additional 13 cents per hundredweight hauling subsidy.

There is, however, a wide variation in the utilization of the above handlers. Substantially more than half of the Grade A milk received by Cass-Clay and Fergus Dairy is used in the manufacture of dairy products. The combined utilization of the four plants of Land O'Lakes (located at Thief River Falls, Crookston, and Brainerd, Minn., and Grand Forks, N. Dak.) approximates 60 percent Class I. The Fairmont Foods plant at Moorhead, Minn., also utilizes the greater part of its receipts as Class I milk. At the plant of the Minnesota Dairy Co., virtually all producer receipts are used for Class I purposes.

The identical Class I price should apply to all plant locations within 70 miles of Grand Forks or Fargo, N. Dak. These two cities represent the areas of greatest population concentration and hence represent the greatest proportion of the area's Class I sales. The 70-mile radius includes other nearby cities of smaller population with which there is considerable exchange of Class I sales.

Producer association proponents for the Minnesota-North Dakota order proposed (modified slightly from that noticed) a Class I price of 20 cents above the Twin Cities Class I price for plants located at least 210 but not more than 285 airline miles from a designated basing point in St. Paul, Minn. Such pricing zone would include fluid milk plants located at Fargo, Grand Forks, and Valley City, N. Dak., and at Moorhead, East Grand Forks, Crookston and Thief River Falls, Minn.

Both producers and handlers stressed the importance of proper Class I price alignment for the Minnesota-North Dakota marketing area with Class I prices in nearby markets, particularly that of the Minneapolis-St. Paul market.

It is essential in aligning Class I prices in the proposed area compared to Minneapolis-St. Paul to avoid any price incentive for Minneapolis-St. Paul milk to move into this area which already has more Grade A milk than can be disposed of in Class I sales. The Minneapolis-St. Paul order Class I price is modified by a supply-demand adjuster with a maximum of 24 cents. Hence, such price can be 24 cents less than the proposed Class I price under this order. Since the adjuster is currently at minus 24 cents, the Minneapolis-St. Paul Class I price would currently be 24 cents less than the proposed price for this area.

On the basis of the record of the regional hearing at Denver on April 11,

1967 (which reopened the hearing held at Fargo, N. Dak., in August 1966), it was concluded that for the purpose of Class I pricing through April 1968 the minimum basic formula price under the subject Federal orders should not be less than \$4.05. It was further concluded that 20 cents should be added through April 1968 to Class I price differentials otherwise to be effective. The Minnesota-North Dakota market pricing should reflect these conclusions. The resulting provisions likewise will assist to maintain reasonable alignment with the Minneapolis-St. Paul market.

This price difference should not divert milk from the Minneapolis area to this area because transportation costs would offset the price difference.

Fargo and Grand Forks, N. Dak., and Moorhead, Minn., are among the principal cities in the market from which milk is distributed. The adjoining cities of Fargo-Moorhead are approximately 240 road miles from Minneapolis-St. Paul. Correspondingly, Grand Forks is about 312 miles distant from Minneapolis and St. Paul. Milk may be moved into the Minnesota-North Dakota market from plants located in Minneapolis or St. Paul at a transportation cost of approximately 29 cents per hundredweight to Fargo-Moorhead and 37 cents to Grand Forks. The Class I prices in the Fargo-Moorhead and Grand Forks areas should not, therefore, exceed the Class I prices for the Twin Cities order by more than about these transportation costs.

Ideally, Class I prices in the Minnesota-North Dakota market should reflect local milk supply and sales relationships as well as maintaining reasonable alignment with other market prices. Although the area has an ample supply of Grade A milk to meet current demands, complete data with respect to receipts and sales of milk in the area are not available. Any price adjustment mechanism which would be designed to reflect such supply and sales relationships in a pricing formula would not, therefore, be practical at this time. Furthermore, the conditions of supply and sales are likely to be somewhat different under a program of orderly pricing than those which have prevailed in recent years.

For this reason, a limit of 18 months is provided for the Class I price provisions of the order. This will afford an opportunity to review the provisions at a hearing in the light of marketing conditions at that time. Such review could also include consideration of supply and sales relationships for adjustment purposes.

Class II price. The Class II price should be the average price per hundredweight for manufacturing grade milk f.o.b. plants in Minnesota and Wisconsin, as reported by the U.S. Department of Agriculture, adjusted to a 3.5 percent butterfat test.

The order proponents initially proposed that the Class II price be established at the level of the Minnesota-Wisconsin manufacturing grade milk price, adjusted to 3.5 percent butterfat test. They modified this proposal at the

hearing to request a Class II price level 6 cents per hundredweight below the "series" level. There was general agreement by producers and handlers alike that the Class II milk price for the market should be based upon the Minnesota-Wisconsin price series. There was less agreement as to the amount, if any, that the Class II price should be set below the series price. Support in this matter ranged from a zero to a minus 6 cents per hundredweight adjustment.

Large quantities of reserve supplies of milk for the market are utilized in the manufacture of butter and nonfat dry milk. These operations are confined to several large plants. There is much variation in the handling and marketing of surplus milk at the plants of other handlers. Some milk utilized for Class I purposes in the market is handled at plants with limited manufacturing facilities. However, a number of plants which would be pool plants under the orders maintain manufacturing operations, especially for such items as ice cream and cottage cheese. Throughout the year, particularly in the spring months of heavy production, producer milk not needed for fluid uses is moved to manufacturing plants by the handler who regularly receives the milk or by the cooperative association responsible for marketing such producer milk.

Prices paid by manufacturing plants may differ because of changes in the relative prices of the product which they manufacture and because of variations in the quantities of milk available for manufacturing purposes. Handlers often will dispose of excess milk to those plants which are paying the highest price at the time of such disposal. Because of smaller volume and inefficient means of handling, it is possible that some handlers may at times incur losses in handling their necessary reserve supplies of milk. The handling of such reserve milk is incidental, however, to the handling of fluid milk.

The price for manufacturing milk should be at a level which will provide the highest possible returns to producers in the market while at the same time encouraging the orderly marketing of such milk. A Class II price based on the average Minnesota-Wisconsin manufacturing milk price should adequately meet these pricing objectives. The desirability of using a competitive pay price is based on the premise that in the highly competitive dairy industry, average prices which are paid in the areas where there is substantial competition for manufacturing milk provide as good a measure of its value as can be obtained. The Minnesota-Wisconsin price series is representative of prices paid to farmers for about one-half of the manufacturing grade milk sold in the United States. In Minnesota about 84 percent of the milk sold off farms is of manufacturing grade and in Wisconsin, about 58 percent.*

* Official notice is taken of the "Supplement for 1963-64 to Dairy Statistics through 1960," Statistical Bulletin No. 303, Economic Research Service, USDA, June 1965.

There are many plants in these states which are competing for such milk supplies. This price series reflects a price level determined by competitive conditions which are affected by demand in all of the major uses of manufactured dairy products. Further, it reflects the supply and demand of manufactured dairy products within a highly coordinated marketing system which is national in scale.

Plants which handle most of the Class II milk for this market are either located in Minnesota or receive a major portion of their supply from producers located in Minnesota. All of these plants are in competition for supplies with plants whose paying prices are included in the Minnesota-Wisconsin price series. It is necessary, therefore, that the prices paid by handlers under the order be commensurate with those paid by their competitors if their milk supply is to be maintained.

Butterfat differentials. The recommended classification system provides for a full accounting of all skim milk and butterfat utilized in all products. While milk is priced to handlers at a basic test of 3.5 percent, it is intended that each handler's cost for milk shall reflect the proportions of skim milk and butterfat in each class. This is accomplished by adjusting the class prices to each handler by appropriate butterfat differentials.

The Class I butterfat differential adopted herein is the same as that used in a substantial number of other orders and is determined by multiplying the Chicago butter price by 0.12.

This differential, which would have averaged 7.2 cents in 1965 (a variation that year from 7 to 7.6 cents), is a reasonable representation of the value of butterfat when disposed of in the fluid items indicated in this class.

The Class II butterfat differential of 11.5 percent of the Chicago butter price is likewise comparable with its counterpart in a number of other orders throughout the country. It will vary from month to month as the butter price varies. Hence, it will facilitate the movement of butterfat in that milk which is not needed for fluid use to manufacturing outlets. The Class II butterfat differential will appropriately reflect the values of butterfat and skim milk components in milk used in manufacturing operations.

The use of the Chicago butter price as a basis for establishing butterfat differentials will provide assurance for both producers and handlers that such differentials reflect changes in the butterfat values in the national market. The differentials adopted were suggested by proponents of regulation.

The butterfat differential used in making payments to producers should be calculated at the average of the return actually received from the sale of butterfat in producer milk. The rate to be used for this purpose would be the average of the Class I and Class II butterfat differentials weighted by the proportion of butterfat in producer milk classified in each class. Thus, producer returns for

butterfat will reflect the average value of their butterfat in the two classes provided in this order. The producer butterfat differential does not affect a handler's obligation and its sole purpose is to prorate returns among producers to the extent their milk differs from the basic 3.5 percent butterfat test.

Location differentials. Location differentials should be incorporated in the order to provide appropriate adjustment in the Class I price and uniform price based upon the location of any plant at which producer milk is received. Class I milk because of its bulky and perishable nature incurs high transportation costs if moved a considerable distance. Milk delivered directly by farmers to handlers' plants located close to the area where such milk is distributed to consumers is therefore more valuable to the handler than milk obtained at a plant many miles from the market.

The Fargo-Moorhead metropolitan area and Grand Forks, N. Dak., are the principal cities from which fluid milk products are distributed throughout the recommended marketing area. They represent the points where there is the largest concentration of population and therefore are the areas of largest milk sales to consumers.

The Class I and uniform price at any plant which is located 70 or more but less than 80 road miles from the nearer of the city halls at Fargo or Grand Forks should be subject to a plus or minus adjustment of ten cents plus an additional 1.2 cents for each 10 miles or fraction thereof in excess of 80 miles. The location adjustment would be added to the prices at plants located in North or South Dakota and subtracted at plants located in Minnesota.

These location differentials provide higher prices for milk received at pool plants located west and southwest of the Minnesota-North Dakota State boundary, and lower prices for milk received at plants in the heavy production areas of Minnesota.

Milk production in the portion of the marketing area west of the Red River decreases rapidly as one proceeds away from the river. Supplemental supplies needed by handlers located there must be received from plants located either in Grand Forks or Fargo, or further to the east in Minnesota. Thus, the appropriate price level is the prevailing price in the high production area to the east plus the cost of transporting the milk into the Dakotas. Historically prices paid by handlers in central and western North Dakota have reflected this difference.

Some handlers so located opposed the higher price on the grounds that it would place them at a competitive disadvantage in selling milk in the eastern part of the State where no location differential is applicable.

It is recognized that handlers so located may find it more difficult to compete for Class I sales in the cities of Grand Forks and Fargo. However, producers should not be required to receive a lesser value for their milk to enable a handler to distribute milk in an area where he has a natural disadvantage.

As one moves east and southeast from the Grand Forks and Fargo-Moorhead areas into the areas of heavy milk production, prices should be reduced by the cost of moving such milk from such areas to Fargo or Grand Forks.

Distances should be measured by highway mileage rather than by airline miles as was proposed by the proponents. Because of the condition of the highways, load limits, etc., the actual highway miles which milk is transported may vary widely in relation to the airline mileage.

The rate of 1.2 cents per hundred-weight per 10 road miles reflects the approximate costs of moving milk to city plants in this market. The location differentials, as proposed, will establish prices at each pool plant which will permit such pool plants to compete among themselves on the basis of prices adjusted to reflect transportation costs.

Uniform prices to be paid producers supplying plants at which location differentials are applicable should likewise be adjusted by the same amounts to reflect the value of the milk at the point to which the milk is delivered.

No location differential should apply to Class II milk. Such milk need not be moved to the area centers of population to be sold. Handlers should not be encouraged to move milk long distances for Class II purposes at the expense of dairy producers since Class II products incur little freight cost and prices for such products vary little with location. The Class II milk should be manufactured as near as possible to the source of production and the product should be transported rather than the milk.

A method is provided for determining, if necessary, the priority of milk from various plants allocated to Class I for the purpose of computing the aggregate location differential to be allowed.

To insure that milk will not be moved unnecessarily at producers' expense, the order should contain a provision to determine whether milk transferred between plants may receive the location differential credit. This should provide that, for the purpose of calculating such credit fluid milk products received from pool plants shall be assigned to any Class I milk at the transferee plant that is in excess of the sum of producer milk receipts at such plant and receipts from other order plants and unregulated supply plants which are assigned to Class I. Such assignment would be made first to shipping plants having the same or higher prices, next to plants with a lower price in sequence according to the location differential applicable at each plant. This will provide an equitable basis for facilitating the movement of milk between pool plants for Class I purposes. Likewise, it will tend to discourage the unnecessary moving of milk between pool plants for other than Class I purposes at the expense of producers.

Use of equivalent prices. If for any reason a price quotation required by the order for computing class prices or for other purposes is not available in the manner described, the market administrator should use a price determined by the Secretary to be equivalent to the price

which is required. Including such provision in the order will leave no uncertainty with respect to the procedure which shall be followed in the absence of any price quotations which are customarily used and thereby will prevent any unnecessary interruption in the operation of the order.

d. *Distribution of proceeds to producers.* The order should contain provisions whereby the payments made by handlers for milk at class prices are converted to uniform prices to be paid to producers. The provisions should specify also the terms under which such payments must be made.

(1) *Type of pool.* The order should provide for market pooling of the value of producer milk used by all handlers.

Under a market pool the total money obligation of all handlers in the market for producer milk is combined to compute a uniform price applicable to all producer milk.

To accomplish this purpose it is necessary that there be an exchange of money among handlers such that each handler is able to pay the marketwide uniform price. The transfer of money is made through a producer-settlement fund established by the market administrator. Each handler pays into the producer-settlement fund any plus difference between the value of his milk at the market uniform price based on the market utilization of all handlers, and the value of his milk computed at the class prices. A handler whose milk has a lesser value at the class prices than at the market uniform price receives payment for the difference from the producer-settlement fund. This arrangement enables each handler to pay the uniform price to producers subject to butterfat and location differentials.

The marketwide pool will insure that each producer supplying the market will receive a return reflecting his pro rata share of Class I and Class II utilization. Each producer will receive a "blend" price for his milk which will reflect the average utilization of all pool plants in the market. Each handler, however, will pay for milk according to the class prices.

The marketwide pooling of returns to producers will promote efficient handling of milk in the area. Some plants disposing of milk in the recommended marketing area have little, if any, facilities for manufacturing reserve milk. Such plants normally limit their receipts of producer milk to the quantity needed for Class I in the flush production season and procure from other plants supplemental supplies of milk for Class I during the short production season. Other plants have some manufacturing facilities or outlets available to market surplus supplies, and thus are able to carry adequate supplies of milk throughout the year.

A marketwide pool will enable the handlers with manufacturing facilities, or any cooperative association, to handle the reserve supplies and yet pay to producers the same price as is paid by handlers who do not assume the responsibility of carrying the necessary reserve. The lower return for the reserve milk in the market will thereby be apportioned

equally among all producers in the market. Under an individual-handler pooling system as proposed by two handlers, this burden would be carried by individual groups of producers.

Many handlers in the proposed Minnesota-North Dakota marketing area depend on one of several associations for their "balancing" supplies, and the co-operatives assume responsibility in disposition of milk in excess of handlers' needs. It would be impossible for such associations to maintain equitable returns to producer members without the operation of a market pool.

Two handlers proposed an individual-handlers method of pooling. For the reasons set forth above, it has been concluded that a marketwide pool is necessary and that an individual-handler pool would be inappropriate.

(2) *Payments to producers.* Each handler under the order should pay each producer for milk received from such producer and for which payment is not made to a cooperative association at not less than the applicable uniform price.

A partial payment for milk delivered during the first 15 days of the month would also be required on or before the last day of the month at not less than the Class II price for the preceding month. Final payment to producers would be required on or before the 15th day of the month at the applicable uniform price for the preceding month, less partial payments and authorized deductions.

Provision should be made for a co-operative association, which is acting in the capacity of a handler on diverted milk, or a handler operating a pool plant, to receive payment for the producer milk it caused to be delivered to a pool plant. A partial payment at the applicable Class I price would be required on or before the 26th day of the month for milk so delivered during the first 15 days of such month. A final settlement would be required on or before the 13th day after the end of the month in which such milk was delivered. This settlement will be made on the basis of the applicable class prices, less partial payment and authorized deductions.

Further, each handler should pay a co-operative association for milk received from such association in its capacity as a handler on bulk tank milk pursuant to § 1060.10(c) of the order. A partial settlement for such milk received during the first 15 days of the month should be made at not less than the Class II price for the preceding month. The final settlement for the value of such milk should be made at the applicable uniform price, less partial payments.

In making payments to producers, the handler should be required to furnish each producer a supporting statement. This statement should show the pounds and butterfat tests of milk received from such producer, the rate of payment for such milk, if such rate is other than the applicable minimum rate, and any deductions claimed by the handler.

(3) *Producer-settlement fund.* All producers will receive payment at the rate of the marketwide uniform price each

month. Because the payment due from each handler for producer milk at the applicable class prices may be more or less than he is required to pay directly to producers, a method of equalizing this difference is necessary. A producer-settlement fund should be established for this purpose. A handler whose obligation for producer milk received during the month is greater than the amount he is required to pay producers for such milk at the applicable uniform prices would pay the difference into the producer-settlement fund and each handler whose obligation for producer milk is less than the applicable uniform price values would receive payment of the difference from the fund. Provision for the establishment and maintenance of the producer-settlement fund as set forth in the attached order is similar to that contained in other Federal orders with marketwide pools.

For efficient functioning of the producer-settlement fund, a reasonable reserve should be set aside at the end of each month. This is necessary to provide for such contingencies as the failure of a handler to make payment of his monthly billing to the fund or the payment to a handler from the fund by reason of an audit adjustment. The reserve, which would be operated as a revolving fund and adjusted each month, is established in the attached order at not less than 4 nor more than 5 cents per hundredweight of producer milk in the pool for the month.

Any payments on partially regulated milk received by the market administrator from any handler would be deposited in the producer-settlement fund. Money thus deposited would be included in the uniform price computation and thereby be distributed to all producers on the market.

e. *Administrative provisions.* Provisions should be included in the order with respect to the administrative steps necessary to carry out the proposed regulation.

In addition to the definitions discussed earlier in this decision, which define the scope of the regulation, certain other terms and definitions are desirable in the interest of brevity and to assure that each usage of the term denotes the same meaning. Such terms as are defined in the attached order are common to many other Federal milk orders.

(1) *Market Administrator.* Provision should be made for the appointment by the Secretary of a market administrator to administer the order and to set forth the powers and duties for such agency essential to the proper functioning of such office.

(2) *Records and reports.* Provisions should be included in the order requiring handlers to maintain adequate records of their operations and to make reports necessary to establish classification of producer milk and payments due therefrom. Such reports are necessary for the computation of the uniform price and determination of each plant's continuing status under the order. The maintenance of adequate records is necessary to enable the market administrator to verify receipts and utilization as reported

by the handlers and to verify that the several financial obligations arising under the order are fully discharged.

It is essential that handlers' reports be submitted to the market administrator not later than the 7th day after the end of each month. The market administrator should announce the uniform price for the previous month's milk by the 12th day of each month. Handlers should submit payments due to the producer-settlement fund on or before the 12th day after the end of the month. The payroll report of each handler should be submitted to the market administrator on or before the 20th day of each month. It should include such information as weight, butterfat tests, payments for milk and authorized deductions.

Handlers should maintain and make available to the market administrator all records and accounts of their operations, together with facilities which are necessary to determine the accuracy of information reported to the market administrator or any other information upon which the classification of producer milk depends. The market administrator must likewise be permitted to check the accuracy of weights and tests of milk and milk products received and handled, and to verify all payments required under the orders.

Detailed reports to the market administrator and complete records available for his inspection by all handlers would be used to determine whether the plants of such handlers qualify as pool plants. Reports of handlers operating nonpool plants from which fluid milk products are distributed in the marketing area would also be used by the market administrator to compute the amounts payable to the producer-settlement fund on such unpriced milk.

A cooperative association having authority to market milk for member producers should have available to it information on the use of such milk by individual handlers in order that member milk may be directed to those handlers needing Class I milk. This will promote orderly marketing by enabling the efficient allocation among handlers of available milk supplies and assist producers in maximizing their returns. A provision, therefore, should be included to authorize the market administrator to provide this information when it is requested by such an association. For the purpose of this report, the utilization of member milk in each handler's plant would be prorated to each class in the same ratio as all producer milk is allocated to each class during the month.

It is necessary that handlers retain records to prove the utilization of milk and that proper payments were made therefor. Since books and records of all handlers cannot be completely audited immediately after receipt of the milk, it becomes necessary to keep such records for a reasonable period of time.

The order should provide limitations on the period of time handlers shall be required to retain books and records and on the period of time in which obligations under the orders shall terminate. Pro-

vision made in this regard is identical in principle with the general amendment (made to all milk orders which were in operation on July 30, 1947), following the Secretary's decision of January 26, 1949 (14 F.R. 444). That decision covering the retention of records and limitation of claims, is equally applicable in this situation and is adopted as a part of this decision.

(3) *Expense of administration.* Each handler should be required to pay to the market administrator, as his proportionate share of the cost of administering the order, 4 cents per hundredweight, or such lesser amount as the Secretary may prescribe, on producer milk (including milk of such handler's own production) and on other source milk allocated to Class I (except milk so assessed under another Federal order).

The market administrator must have sufficient funds to enable him to administer properly the terms of the order. The Act provides that such cost of administration shall be financed through an assessment on handlers. A principal function of the market administrator is to verify the receipts and disposition of milk from all sources. Equity in sharing the cost of administration of the order among handlers will be achieved, therefore, by applying the administrative assessment on the basis of Grade A milk received from dairy farmers at a plant and on other source milk allocated to Class I milk.

The order provides that a cooperative association may act as the handler for milk of members which is delivered in tank trucks directly from the farm to pool plants of other handlers.

The cooperative is considered the handler for such milk only for the purpose of accounting to the individual producers. Such milk is producer milk at the plant of the receiving handler and is treated the same as any other direct receipt from producers. Therefore the handler who receives the milk should pay the administrative assessment on it.

The order specifies minimum performance standards that must be met to obtain regulated status. Operators of plants not meeting such standards are required to either (1) make specified payments into the producer-settlement fund on route distribution in the marketing area in excess of offsetting purchases of Federal order Class I milk, or (2) otherwise pay into such fund and/or to dairy farmers an amount not less than the classified use value of his receipts from dairy farmers computed as though such plant were a fully regulated plant.

The market administrator, in administering an order as it applies to the non-pool route distributor, must incur expenses in essentially the same manner as in applying the order to pool handlers. However, the order is not applicable to such distributor to the same extent as to regulated handlers. Hence, payment of the administrative assessment on his in-area sales reasonably would constitute his pro rata share of administrative expense.

In the case of unregulated milk which enters the market through a regulated

plant for Class I use, it is the regulated handler who utilizes the unregulated milk and who must report to the market administrator the receipt and use of such milk. Also, the receipts and utilization of all milk at his plant are subject to verification by the market administrator. Hence, it is appropriate that the regulated handler be responsible for payment of the administrative assessment on such regulated milk.

The order is designed so that the cost of administration is shared equitably among all handlers distributing milk in the proposed marketing area. However, to prevent duplication an assessment should not be made on other source milk on which an assessment was made under another Federal order.

In view of the anticipated volume of milk and the costs of administering orders in markets of comparable circumstances, it is concluded that an initial rate of 4 cents per hundredweight is necessary to meet the expenses of administration. Provision should be made to enable the Secretary to reduce the amount of the administrative assessment without the necessity of amending the order.

A higher assessment rate may prevail when the order is first issued since part of the assessment is used each month to provide a reserve fund for operational expenses. Once the necessary reserve has been established, the assessment rate to handlers is reduced to whatever rate is needed to meet operating expenses. This may be done at any time experience in the market reveals that a lesser rate will provide sufficient revenue for proper administration of the order.

(4) *Marketing services.* Provisions should be made in the order for furnishing marketing services to producers, such as verifying the tests and weights of producer milk and furnishing market information. These services should be provided by the market administrator and the cost should be borne by producers for whom the services are rendered. If a cooperative association is performing such services for its member-producers and is approved for such activity by the Secretary, the market administrator may accept this in lieu of his own service.

Milk produced on a handler's own farm should be exempt from marketing service deductions, even though it is subject to the other provisions of the order. There are no payments to producers to verify on such milk and, therefore, no need to provide the same marketing services as are provided other producers.

There is need for a marketing service program in connection with the administration of the order in this area. Orderly marketing will be promoted by assuring individual producers that they have obtained accurate weights and tests of their milk. Complete verification requires that butterfat tests and weights of individual producer deliveries reported by the handler are accurate.

An additional phase of the marketing service program is to furnish producers with correct market information. Efficiency in the production, utilization, and

marketing of milk will be promoted by providing for the dissemination of current market information on a market-wide basis to producers.

To enable the market administrator to furnish these marketing services, provision should be made for a maximum deduction of 5 cents per hundredweight with respect to receipts of milk from producers for whom he renders such marketing services. Comparison of the number of producers involved and the expected volume of milk with that of other markets indicates that a 5-cent rate is reasonable and should provide the funds necessary to conduct the program. If later experience indicates that marketing services can be performed at a lesser rate, provision is made whereby the Secretary may adjust the rate downward without the necessity of a hearing.

Miscellaneous. A "base and excess" plan of distributing returns for milk among producers and designed to encourage more even production throughout the year was suggested by one handler. Although such a plan was supported on the record by certain handlers and producer groups, the data concerning the seasonality of production of all producers who supply the market are not extensive enough to permit consideration of a base-excess plan for this market at this time.

Rulings on proposed findings and conclusions. Briefs and proposed findings and conclusions were filed on behalf of certain interested parties. These briefs, proposed findings and conclusions, and the evidence in the record were considered in making the findings and conclusions set forth above. To the extent that the suggested findings and conclusions filed by interested parties are inconsistent with the findings and conclusions set forth herein, the requests to make such findings or to teach such conclusions are denied for the reasons previously stated in this decision.

General findings. (a) The proposed marketing agreement and order and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(b) The parity prices of milk as determined pursuant to section 2 of the Act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the marketing area, and the minimum prices specified in the proposed marketing agreement and the order are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(c) The proposed marketing agreement and order will regulate the handling of milk in the same manner as, and will be applicable to persons in the respective classes of industrial and commercial activity specified in, a marketing agreement upon which a hearing has been held.

Recommended marketing agreement and order. The following order regulat-

ing the handling of milk in the Minnesota-North Dakota marketing area is recommended as the detailed and appropriate means by which the foregoing conclusions may be carried out. The recommended marketing agreement is not included in this decision because the regulatory provisions thereof would be the same as those contained in the proposed order.

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1060.83	Producer-settlement fund.
1060.84	Payments to the producer-settlement fund.
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1060.86	Adjustment of accounts.
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EFFECTIVE TIME, SUSPENSION OR TERMINATION

1060.90	Effective time.
1060.91	Suspension or termination.
1060.92	Continuing obligations.
1060.93	Liquidation.

MISCELLANEOUS PROVISIONS

1060.100	Agents.
1060.101	Separability of provisions.

GENERAL DEFINITIONS

§ 1060.1 Act.

"Act" means Public Act No. 10, 73d Congress, as amended, and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.).

§ 1060.2 Minnesota-North Dakota marketing area.

The "Minnesota-North Dakota marketing area", hereinafter called the "marketing area," means all the territory within the boundaries of the counties listed below, including territory wholly or partly within such boundaries occupied by Government (municipal, State, or Federal) reservations, installations, institutions or other similar establishments:

MINNESOTA

Becker.	Marshall.
Beltrami.	Norman.
Big Stone.	Otter Tail.
Clay.	Pennington.
Clearwater.	Polk.
Douglas.	Red Lake.
Grant.	Roseau.
Hubbard.	Stevens.
Kittson.	Traverse.
Lake of the Woods.	Wadena.
Mahnomen.	Wilkin.

NORTH DAKOTA

Barnes.	Pembina.
Cass.	Ramsey.
Cavallier.	Ransom.
Dickey.	Richland.
Grand Forks.	Sargent.
Griggs.	Steele.
La Moure.	Trall.
Nelson.	Walsh.

SOUTH DAKOTA

Grant.	Roberts.
Marshall.	

§ 1060.3 Route.

"Route" means a delivery to a wholesale or retail outlet either directly or through a distributing facility such as a distribution point, a plant store, or a vendor of a fluid milk product classified as Class I pursuant to § 1060.41(a) (1), other than a delivery to a pool plant or a nonpool plant.

§ 1060.4 Department.

"Department" means the U.S. Department of Agriculture or such other Federal agency as is authorized to perform the price reporting functions specified in this part.

§ 1060.5 Chicago butter price.

"Chicago butter price" means the simple average as computed by the market administrator of the daily wholesale selling prices (using the midpoint of any price range as one price) per pound of Grade A (92-score) bulk creamery butter at Chicago as reported during the month by the Department.

DEFINITIONS OF PERSONS**§ 1060.6 Person.**

"Person" means any individual, partnership, corporation, association, institution, or other business unit.

§ 1060.7 Secretary.

"Secretary" means the Secretary of Agriculture of the United States or such other officer or employee of the United States as is authorized to exercise the powers or to perform the duties of the said Secretary of Agriculture of the United States.

§ 1060.8 Producer.

"Producer" means any person, other than a producer-handler as defined in any order (including this part) issued pursuant to the Act, who produces milk in compliance with the Grade A inspection requirements of a duly constituted health authority, which milk is (a) received at a pool plant, or (b) diverted as producer milk pursuant to § 1060.16.

§ 1060.9 Cooperative association.

"Cooperative association" means any cooperative marketing association of producers which the Secretary determines, after application by the association:

(a) Is qualified under the provisions of the Act of Congress of February 18, 1922, as amended, known as the "Capper-Volstead Act";

(b) Has full authority in the sale of milk of its members and is engaged in making collective sales of or marketing milk or its products for its members; and

(c) Has its entire activities under the control of its members.

§ 1060.10 Handler.

"Handler" means:

(a) Any person (including any cooperative association) in his capacity as the operator of one or more pool plants;

(b) Any cooperative association with respect to producer milk which it causes to be diverted for its account from a pool plant pursuant to § 1060.16;

(c) Any cooperative association with respect to the milk of its member producers which is delivered directly from the farm to the pool plant of another handler in a tank truck owned, operated by, under contract to, or under the control of such cooperative association. The milk for which a cooperative association is a handler pursuant to this paragraph shall be deemed to have been received at

the location of the pool plant to which it was delivered;

(d) Any person who operates a partially regulated distributing plant. This definition shall not apply to a governmentally owned and operated institution which is exempt from the provisions of this part pursuant to § 1060.60(b); and

(e) A producer handler, or any person who operates an other order plant as described in § 1060.61;

§ 1060.11 Producer-handler.

"Producer-handler" means any person who operates a dairy farm and a distributing plant and who received no milk during the month from other dairy farmers or from sources other than pool plants and not more than 3,000 pounds of milk and fluid milk products (including the milk equivalent of nonfluid products which are reconstituted into fluid milk products) during the month from any source. Such person must provide proof satisfactory to the market administrator that (a) the care and management of all the dairy animals and other resources necessary to produce the milk are the personal enterprise of and at the personal risk of such person, and (b) the operation of the processing and distributing business is the personal enterprise of and at the personal risk of such person.

DEFINITIONS OF MILK AND MILK PRODUCTS**§ 1060.15 Producer milk.**

"Producer milk" means all the skim milk and butterfat contained in Grade A milk:

(a) Received during the month at a pool plant directly from a producer or a handler pursuant to § 1060.10(c);

(b) Diverted subject to the provisions of § 1060.16 from a pool plant to a non-pool plant other than an other order plant or a producer-handler plant; or

(c) Received by a cooperative association handler pursuant to § 1060.10(c) from producers in excess of the quantity delivered to pool plants.

§ 1060.16 Diverted milk.

"Diverted milk" means producer milk that is normally received at a pool distributing plant but which is moved directly from a dairy farm to a nonpool plant for the account of a handler operating a pool distributing plant or a handler pursuant to § 1060.10(b). Such milk shall be deemed to have been received by the diverting handler at the location of the nonpool plant to which diverted in applying §§ 1060.53 and 1060.82. The diversion of producer milk is subject to the following conditions:

(a) A cooperative association handler pursuant to § 1060.10(b) may divert for its account without limit during the other days of the month the milk of any member producer, whose milk is received at a distributing pool plant for at least 3 days during the month. The total quantity of milk so diverted may not exceed 50 percent in each of the months of July through February of its member producer milk received at all distributing pool plants during the month.

(b) A handler in his capacity as the operator of a distributing pool plant may divert for his account the milk of any producer, other than a member of a cooperative association which has diverted milk pursuant to paragraph (a) of this section, whose milk is received at his pool distributing plant on at least 3 days during the month. However, the total quantity of milk so diverted may not exceed 50 percent in each of the months of July through February of the milk received at such plant during the month from producers who are not members of a cooperative association which has diverted milk pursuant to paragraph (a) of this section; and

(c) In the event milk receipts from dairy farmers are diverted in excess of the applicable percentages pursuant to paragraphs (a) and (b) of this section the diverting handler shall specify the dairy farmers whose milk was overdiverted. Only the milk of such dairy farmer(s) which is received at a pool plant during the month shall be producer milk for such month.

§ 1060.17 Other source milk.

"Other source milk" means all skim milk and butterfat contained in or represented by:

(a) Fluid milk products received from any source except:

(1) Producer milk;

(2) Fluid milk products received from pool plants; or

(3) Inventory of fluid milk products on hand at the beginning of the month; and

(b) Products, other than fluid milk products, received from any source (including those produced at the plant) which are reprocessed or converted into or combined with another product in the plant during the month, and any disappearance of products other than fluid milk products not otherwise accounted for.

§ 1060.18 Fluid milk product.

"Fluid milk product" means milk, skim milk, flavored milk, concentrated milk, buttermilk, milk drinks (plain or flavored), sour cream and sour cream products labeled Grade A, cream or any mixture in fluid form of cream and milk or skim milk. The term includes these products in fluid, frozen, fortified (including "dietary" milk products) or reconstituted form but does not include sterilized products in hermetically sealed containers and such products as yogurt, eggnog, aerated cream in dispensers, ice cream mix, frozen dessert mix and evaporated or condensed milk or skim milk.

DEFINITIONS OF PLANTS**§ 1060.20 Plant.**

"Plant" means the land, buildings, facilities, and equipment constituting a single operating unit or establishment at which milk or milk products are received, processed and/or packaged. Separate facilities used only as a reload point for transferring bulk milk from one tank truck to another shall not be a plant

under this definition. Facilities used only as a distribution point for storing fluid milk products in transit on routes shall not be a plant under this definition.

§ 1060.21 Distributing plant.

"Distributing plant" means a plant that is approved by an appropriate health authority for the processing or packaging of Grade A milk and from which fluid milk products are disposed of during the month on routes.

§ 1060.22 Supply plant.

"Supply plant" means a plant from which a fluid milk product that is acceptable to the appropriate health authority for distribution in the marketing area as Grade A is moved during the month to a distributing plant.

§ 1060.23 Pool plant.

"Pool plant" means any plant meeting the conditions of paragraph (a) or (b) of this section except the plant of a handler exempted pursuant to § 1060.60 and § 1060.61: *Provided*, That if a portion of a plant is physically separated from the Grade A portion of such plant, is operated separately and is not approved by any health authority for the receiving, processing, or packaging of any fluid milk product for Grade A disposition, it shall not be considered as part of a pool plant pursuant to this section.

(a) A distributing plant from which during the month there is disposed:

(1) As Class I milk on routes in the marketing area not less than 15 percent of Grade A milk receipts at such plant; and

(2) As Class I milk on routes or by transfer to another plant and classified as Class I pursuant to § 1060.44 not less than the applicable percentage of such plant's receipts of Grade A milk:

(i) March through June, 20 percent;

(ii) July through February, 25 percent: *Provided*, That all distributing plants operated by a handler may be considered as one plant for the purpose of meeting the applicable percentage requirement of this subparagraph if the handler submits a written request to the market administrator prior to the delivery period for which such consideration is requested; and

(b) A supply plant from which not less than 25 percent of its producer receipts at such plant during the month is shipped as fluid milk products to pool plants qualified pursuant to paragraph (a) of this section: *Provided*, That a supply plant which qualified pursuant to this paragraph in each of the immediately preceding months of August through November shall be a pool plant for the months of March through June unless the plant operator requests the market administrator in writing that such plant not be a pool plant, such nonpool status to be effective the first month following such notice and thereafter until the plant qualifies as a pool plant on the basis of shipments.

§ 1060.24 Nonpool plant.
"Nonpool plant" means any milk receiving, manufacturing or processing

plant other than a pool plant. The following categories of nonpool plants are further defined as follows:

(a) "Other order plant" means a plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act.

(b) "Producer-handler plant" means a plant operated by a producer-handler as defined in any order (including this part) issued pursuant to the Act.

(c) "Partially regulated distributing plant" means a nonpool plant that is neither an other order plant nor a producer-handler plant from which fluid milk products (labeled Grade A) in consumer-type packages or dispenser units are distributed on routes in the marketing area during the month.

(d) "Unregulated supply plant" means a nonpool plant that is a supply plant and is neither an other order plant nor a producer-handler plant.

MARKET ADMINISTRATOR

§ 1060.30 Designation.

The agency for the administration of this part shall be a market administrator, selected by the Secretary, who shall be entitled to such compensation as may be determined by, and shall be subject to removal at the discretion of the Secretary.

§ 1060.31 Powers.

The market administrator shall have the following powers with respect to this part:

(a) To administer its terms and provisions;

(b) To receive, investigate, and report to the Secretary complaints of violations;

(c) To make rules and regulations to effectuate its terms and provisions; and

(d) To recommend amendments to the Secretary.

§ 1060.32 Duties.

The market administrator shall perform all duties necessary to administer the terms and provisions of this part, including but not limited to the following:

(a) Within 45 days following the date on which he enters upon his duties, or such lesser period as may be prescribed by the Secretary, execute and deliver to the Secretary a bond effective as of the date on which he enters upon his duties and conditioned upon the faithful performance of such duties, in an amount and with surety thereon satisfactory to the Secretary;

(b) Employ and fix the compensation of such persons as may be necessary to enable him to administer its terms and provisions;

(c) Obtain a bond in a reasonable amount, and with satisfactory surety thereon, covering each employee who handles funds entrusted to the market administrator;

(d) Pay out of the funds provided by § 1060.88 the cost of his bond and of the bonds of his employees, his own compensation, and all other expenses except those incurred under § 1060.87, necessarily incurred by him in the maintenance and functioning of his office and in the performance of his duties;

(e) Keep such books and records as will clearly reflect the transactions provided for in this part, and upon request by the Secretary, surrender the same to such other person as the Secretary may designate;

(f) Submit his books and records to examination by the Secretary and furnish such information and reports as may be required by the Secretary;

(g) Verify all reports and payments of each handler by audit of such handler's records and of the records of any other handler or person upon whose utilization the classification of skim milk and butterfat for such handler depends and by such other means as are necessary;

(h) Publicly disclose to handlers and producers at his discretion, unless otherwise directed by the Secretary, the name of any person who, within 10 days after the date upon which he is required to perform such acts, has not made reports pursuant to §§ 1060.35 to 1060.37, inclusive, or has not made payments pursuant to §§ 1060.80, 1060.84, 1060.86, 1060.87, and 1060.88.

(i) Prepare and disseminate to the public such statistics and such information as he deems advisable and as do not reveal confidential information;

(j) Publicly announce on or before:

(1) The 6th day of each month, the Class I price and butterfat differential for the month computed pursuant to §§ 1060.51(a) and 1060.52(a), respectively; and the Class II price and butterfat differential for the immediately preceding month computed pursuant to §§ 1060.51(b) and 1060.52(b), respectively; and

(2) The 12th day of each month, the uniform price and the butterfat differential computed pursuant to §§ 1060.71 and 1060.81, respectively, both applicable to milk delivered during the immediately preceding month;

(k) On or before the 12th day of each month, report to each cooperative association which so requests the amount and class utilization of milk received by each handler during the immediately preceding month from such cooperative association in its capacity as a handler pursuant to § 1060.10(c) and directly from members of such cooperative association. For the purpose of this report the milk so received shall be prorated to each class in proportion to the utilization by such handler in each class remaining after allocation pursuant to § 1060.46(a) (1) through (10) and the corresponding steps of § 1060.46(b); and

(l) Whenever required for purpose of allocating receipts from other order plants pursuant to § 1060.46(a) (9) and the corresponding step of § 1060.46(b), the market administrator shall estimate and publicly announce the utilization (to the nearest whole percentage) in each class during the month of skim milk and butterfat, respectively, in producer milk of all handlers. Such estimate shall be based upon the most current available data and shall be final for such purpose;

(m) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from

a handler who has received fluid milk products from an other order plant, the classification to which such receipts are allocated pursuant to § 1060.46 pursuant to such report, and thereafter any change in such allocation required to correct errors disclosed in verification of such report; and

(n) Furnish to each handler operating a pool plant who has shipped fluid milk products to an other order plant, the classification to which the skim milk and butterfat in such fluid milk products were allocated by the market administrator of the other order on the basis of the report of the receiving handler; and, as necessary, any changes in such classification arising in the verification of such report.

REPORTS, RECORDS, AND FACILITIES

§ 1060.35 Reports of receipts and utilization.

On or before the 7th day after the end of each month each handler who operates a pool plant(s) shall report for each such plant to the market administrator in the detail and on forms prescribed by the market administrator as follows:

(a) The receipts at each plant of milk from each producer (including such handlers' own production), the average butterfat test, the pounds of butterfat contained therein, the number of days on which milk was received from such producer, and the total quantity of milk and butterfat received from each handler pursuant to § 1060.10(c);

(b) The quantities of skim milk and butterfat contained in (or used in the production of) fluid milk products received from other pool plants;

(c) The quantities of skim milk and butterfat contained in receipts of other source milk;

(d) The utilization of skim milk and butterfat required to be reported pursuant to this section;

(e) The disposition of fluid milk products on routes in the marketing area;

(f) The pounds of skim milk and butterfat contained in all fluid milk products on hand, both in bulk and in packages, at the beginning and at the end of the month;

(g) Such other information with respect to receipts and utilization as the market administrator may prescribe; and

(h) Each handler specified in § 1060.10(d) who operates a partially regulated distributing plant shall report as required in this section, except that receipts of Grade A milk shall be reported in lieu of those in producer milk. Such report shall include a separate statement showing the respective amounts of skim milk and butterfat disposed of in the marketing area as Class I milk on routes.

§ 1060.36 Payroll reports.

On or before the 20th day after the end of each month each handler, except a producer-handler or a handler making payments pursuant to § 1060.62(b), shall submit to the market administrator his producer payroll (or in the case of a handler making payments pursuant to § 1060.62(a), his payroll for dairy farm-

ers delivering Grade A milk) for receipts during the preceding month which shall show:

(a) The total pounds of milk, the average butterfat test thereof, and the pounds of butterfat received from each producer and cooperative association and the number of days on which milk was received from such producer;

(b) The amount of payment to each producer and cooperative association; and

(c) The nature and amount of any deductions or charges involved in such payments.

§ 1060.37 Other reports.

(a) Each producer-handler and each handler making payments pursuant to § 1060.62(b) shall make reports to the market administrator at such time and in such manner as the market administrator may prescribe;

(b) Each handler pursuant to § 1060.10

(c) shall report to the market administrator in detail and on forms prescribed by the market administrator on or before the 7th day after the end of each month the quantities of skim milk and butterfat in producer milk delivered to each pool plant in such month and all other producer milk for which it is a handler;

(c) Each handler who receives milk from producers, payment for which is to be made to a cooperative association pursuant to § 1060.80(b), shall report to such cooperative association with respect to each such producer, on forms approved by the market administrator, as follows:

(1) On or before the 20th day of the month, the total pounds of milk received during the first 15 days of the month;

(2) On or before the seventh day after the end of the month:

(i) The pounds per shipment, the total pounds of milk and the average butterfat test of milk received from such producer during the month;

(ii) The amount or rate and nature of any deductions; and

(iii) The amount of any payments to such producer pursuant to § 1060.86.

§ 1060.38 Records and facilities.

Each handler shall maintain and make available to the market administrator, during the usual hours of business, such accounts and records of his operations, together with such facilities as are necessary for the market administrator to verify or establish the correct data with respect to:

(a) The receipt and utilization of all skim milk and butterfat handled in any form during the month;

(b) The weights and tests for butterfat and other content of all milk and milk products handled during the month;

(c) The pounds of skim milk and butterfat contained in or represented by all milk products in inventory at the beginning and end of each month; and

(d) Payments to dairy farmers and cooperative associations, including the amount and nature of any deductions and the disbursement of money so deducted.

§ 1060.39 Retention of records.

All books and records required under this part to be made available to the market administrator shall be retained by the handler for a period of 3 years to begin at the end of the month to which such books and records pertain; *Provided*, That if within such 3-year period, the market administrator notifies the handler in writing that the retention of such books and records, or specified books and records, is necessary in connection with a proceeding under section 8c(15)(A) of the Act or a court action specified in such notice, the handler shall retain such books and records, or specified books and records, until further written notification from the market administrator. In either case, the market administrator shall give further written notification to the handler promptly upon the termination of the litigation or when the records are no longer necessary in connection therewith.

CLASSIFICATION OF MILK

§ 1060.40 Skim milk and butterfat to be classified.

(a) The skim milk and butterfat which are required to be reported pursuant to § 1060.35 and § 1060.37(b) shall be classified each month by the market administrator pursuant to the provisions of §§ 1060.41 through 1060.46; and

(b) If any water contained in the milk from which a product is made is removed before the product is utilized or disposed of by the handler, the pounds of skim milk utilized or disposed of in such product shall be considered to be a quantity equivalent to the nonfat milk solids contained in such product plus all the water originally associated with such solids.

§ 1060.41 Classes of utilization.

Subject to the conditions set forth in §§ 1060.42 through 1060.46, the classes of utilization shall be as follows:

(a) *Class I milk.* Class I milk shall be all skim milk (including that used to produce reconstituted skim milk) and butterfat:

(1) Disposed of in the form of a fluid milk product except:

(i) Fluid milk products classified as Class II pursuant to paragraph (b) (2) and (3) of this section;

(ii) Fluid milk products which are fortified with nonfat milk solids shall be Class I in an amount equal only to the weight of an equal volume of an unfortified product of the same butterfat content;

(2) Contained in inventory of packaged fluid milk products on hand at the end of the month; and

(3) Not accounted for as Class II milk:

(b) *Class II milk.* Class II milk shall be:

(1) Skim milk and butterfat used to produce any product other than a fluid milk product;

(2) Skim milk and butterfat disposed of:

(i) For livestock feed; or

(ii) Dumped after prior notification to and opportunity for verification by the market administrator;

(3) The weight of skim milk in any fortified fluid milk product in excess of the pounds classified as Class I milk pursuant to paragraph (a)(1)(ii) of this section;

(4) In inventory of bulk fluid milk products on hand at the end of the month;

(5) Skim milk and butterfat, respectively, in actual shrinkage at each pool plant allocated pursuant to § 1060.42(b)(1) but not in excess of:

(i) Two percent of producer milk except that received from a handler pursuant to § 1060.10(c) or diverted pursuant to § 1060.16 to a nonpool plant;

(ii) Plus 1.5 percent of milk received in bulk tank lots from other pool plants;

(iii) Plus 1.5 percent of producer milk received from a handler pursuant to § 1060.10(c) and receipts at a pool plant from a handler pursuant to § 1060.10(b), except that if the handler operating the pool plant files notice with the market administrator that the purchase of such milk is on the basis of farm tests and weights determined by farm bulk tank calibrations, the applicable percentage shall be two percent;

(iv) Plus 1.5 percent of milk received in bulk tank lots from other order plants exclusive of the quantity for which Class II utilization was requested by the operators of both plants;

(v) Plus 1.5 percent of milk in bulk tank lots from unregulated supply plants, exclusive of the quantity for which Class II utilization was requested by the handler;

(vi) Less 1.5 percent of milk in bulk tank lots transferred from pool plants to other plants; and plus

(vii) In the case of milk received by a cooperative in its capacity as a handler pursuant to § 1060.10 (b) and (c) 0.5 percent of such receipts from producers as determined by farm tests and weights measured by farm bulk tank calibrations, unless the exception in subparagraph (5)(iii) of this paragraph applies; and

(6) Skim milk and butterfat in shrinkage allocated pursuant to § 1060.42(b)(2).

§ 1060.42 Shrinkage.

The market administrator shall allocate shrinkage over a handler's receipts at each pool plant as follows:

(a) Compute the total shrinkage of skim milk and butterfat, respectively, for each handler at each plant; and

(b) Prorate the resulting amounts among the receipts of skim milk and butterfat contained in:

(1) The net quantity of producer milk and other milk specified in § 1060.41(b)(5) (except milk diverted to a nonpool plant pursuant to § 1060.15); and

(2) Other source milk exclusive of that specified in § 1060.41(b)(5).

§ 1060.43 Responsibility of handlers and reclassification of milk.

(a) All skim milk and butterfat shall be Class I milk unless the handler who first receives such skim milk or butterfat proves to the market administrator that such skim milk or butterfat should be classified otherwise; and

(b) Any skim milk and butterfat shall be reclassified if verification by the market administrator discloses that the original classification was incorrect.

§ 1060.44 Transfers.

Skim milk or butterfat in the form of a fluid milk product shall be classified:

(a) At the utilization indicated by the transferee and transferor handlers in their reports pursuant to § 1060.35, otherwise as Class I milk, if transferred from a pool plant to another pool plant subject in either event to the following conditions:

(1) The skim milk or butterfat so assigned to either class shall be limited to the amount thereof remaining in such class in the transferee plant after computations pursuant to § 1060.46(a)(9) and the corresponding step of § 1060.46(b);

(2) If the transferor handler received during the month other source milk to be allocated pursuant to § 1060.46(a)(4) and the corresponding step of § 1060.46(b), the skim milk and butterfat so transferred shall be classified so as to allocate the least possible Class I utilization to such other source milk; and

(3) If the transferor handler received during the month other source milk to be allocated pursuant to § 1060.46(a)(8) or (9) and the corresponding steps of § 1060.46(b), the skim milk and butterfat so transferred up to the total of such receipts shall not be classified as Class I milk to a greater extent than would be applicable to a like quantity of such other source milk received at the transferee plant, if such classification would change the classification of producer milk on the market or the classification of such other source milk received by the transferor handler during the month;

(b) As Class I milk, if transferred from a pool plant to a producer-handler or to an exempt government institution as defined in § 1060.60;

(c) As Class I if transferred from a pool plant in packaged form to a nonpool plant that is neither an other order plant nor a producer-handler plant;

(d) As Class I milk, if transferred or diverted to a nonpool plant that is neither an other order plant nor a producer-handler plant and is located more than 300 miles by shortest highway distance as determined by the market administrator, from the nearer of the city halls of Fargo or Grand Forks, N. Dak., except that cream so transferred may be classified as Class II if the handler claims classification of such cream in Class II in his report pursuant to § 1060.35, the handler tags the container of such cream as for manufacturing purposes only (and so noticed on invoice), and the handler gives the market administrator sufficient notice to allow him to verify the shipment;

(e) As Class I milk if transferred or diverted in bulk to a nonpool plant that is neither an other order plant nor a producer-handler plant and is not more than 300 miles by shortest highway distance as determined by the market administrator from the nearer of the city halls of

Fargo or Grand Forks, N. Dak., unless the requirements of subparagraphs (1) and (2) of this paragraph are met, in which case the skim milk and butterfat so transferred or diverted shall be classified in accordance with the assignment resulting from subparagraph (3) of this paragraph:

(1) The transferring or diverting handler claims classification pursuant to the assignment set forth in subparagraph (3) of this paragraph in his report submitted to the market administrator pursuant to § 1060.35 for the month within which such transaction occurred;

(2) The operator of such nonpool plant maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available if requested by the market administrator for the purpose of verification; and

(3) The skim milk and butterfat so transferred or diverted shall be classified on the basis of the following assignment of utilization at such nonpool plant in excess of receipts of packaged fluid milk products from all pool plants and other order plants;

(i) Any Class I utilization disposed of on routes in the marketing area shall be first assigned to the skim milk and butterfat in the fluid milk products so transferred or diverted from pool plants, next pro rata to receipts from other order plants and thereafter to receipts from dairy farmers who the market administrator determines constitute regular sources of supply of Grade A milk for such nonpool plant;

(ii) Any Class I utilization disposed of on routes in the marketing area of another order issued pursuant to the Act shall be first assigned to receipts from plants fully regulated by such order, next pro rata to receipts from pool plants and other order plants not regulated by such order, and thereafter to receipts from dairy farmers who the market administrator determines constitute regular sources of supply for such nonpool plant;

(iii) Class I utilization in excess of that assigned pursuant to subdivisions (i) and (ii) of this subparagraph shall be assigned first to remaining receipts from dairy farmers who the market administrator determines constitute the regular source of supply for such nonpool plant and Class I utilization in excess of such receipts shall be assigned pro rata to unassigned receipts at such nonpool plant from all pool and other order plants;

(iv) To the extent that Class I utilization is not so assigned to it the skim milk and butterfat so transferred or diverted shall be classified as Class II milk;

(v) If any skim milk or butterfat is transferred to a second nonpool plant under this paragraph, the same conditions of audit, classification and allocation shall apply;

(f) As follows, if transferred to an other order plant in excess of receipts from such plant in the same category as described in subparagraph (1), (2), or (3) of this paragraph:

(1) If transferred in packaged form, classification shall be in the classes to which allocated as a fluid milk product under the other order;

(2) If transferred in bulk form, classification shall be in the classes to which allocated as a fluid milk product under the other order (including allocation under the conditions set forth in subparagraph (3) of this paragraph);

(3) If the operators of both the transferor and transferee plants so request in the reports of receipts and utilization filed with their respective market administrators, transfers in bulk form shall be classified as Class II to the extent of the Class II utilization (or comparable utilization under such other order) available for such assignment pursuant to the allocation provisions of the transferee order;

(4) If information concerning the classification to which allocated under the other order is not available to the market administrator for purposes of establishing classification pursuant to this paragraph, classification shall be as Class I subject to adjustment when such information is available;

(5) For purposes of this paragraph, if the transferee order provides for more than two classes of utilization, milk allocated to a class consisting primarily of fluid milk products shall be classified as Class I and milk allocated to other classes shall be classified as Class II; and

(6) If the form in which any fluid milk product is transferred to another order plant is not defined as a fluid milk product under such other order, classification shall be in accordance with the provisions of § 1060.41.

§ 1060.45 Computation of skim milk and butterfat in each class.

For each month the market administrator shall correct for mathematical and for other obvious errors the reports of receipts and utilization submitted pursuant to § 1060.35 by each handler and shall compute the pounds of skim milk and butterfat in each class at all pool plants of such handler. Allocation pursuant to § 1060.46 and computation of obligations pursuant to § 1060.70 shall be based upon the combined utilization so computed.

§ 1060.46 Allocation of skim milk and butterfat classified.

After making the computations pursuant to § 1060.45, the market administrator shall determine the classification of producer milk for each handler as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class II the pounds of skim milk classified as Class II pursuant to § 1060.41(b) (5);

(2) Subtract from the pounds of skim milk in each class the pounds of skim milk in fluid milk products received in packaged form from other order plants as follows:

(i) From Class II milk, the lesser of the pounds remaining or 2 percent of such receipts; and

(ii) From Class I milk, the remainder of such receipts;

(3) Except for the first month this order is effective, subtract from the remaining pounds of skim milk in Class I, the pounds of skim milk in inventory of packaged fluid milk products on hand at the beginning of the month;

(4) Subtract in the order specified below from the pounds of skim milk remaining in each class, in series beginning with Class II, the pounds of skim milk in each of the following:

(i) Other source milk in a form other than that of a fluid milk product;

(ii) Receipts of fluid milk products for which Grade A certification is not established, or which are from unidentified sources; and

(iii) Receipts of fluid milk products from a producer-handler, as defined under this or any other Federal order;

(5) Subtract, in the order specified below, from the pounds of skim milk remaining in Class II, but not in excess of such quantity:

(i) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant;

(a) For which the handler requests Class II utilization; or

(b) The pounds of skim milk in receipts which are in excess of the pounds of skim milk determined by subtracting from 125 percent of the pounds of skim milk remaining in Class I milk (exclusive of transfers between pool plants of the same handler) the sum of the pounds of skim milk in producer milk, receipts of fluid milk products from pool plants of other handlers, and receipts of fluid milk products in bulk from other order plants; and

(ii) The pounds of skim milk in receipts of fluid milk products in bulk from an other order plant in excess of similar transfers to such plant, if Class II utilization was requested by the operator of such plant and the transferee handler but not in excess of the pounds of skim milk remaining in Class II milk;

(6) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class II, the pounds of skim milk in inventory of fluid milk products in bulk (and for the first month this order is effective, in packaged fluid milk products) on hand at the beginning of the month;

(7) Add to the remaining pounds of skim milk in Class II milk the pounds subtracted pursuant to subparagraph (1) of this paragraph;

(8) Subtract from the pounds of skim milk remaining in each class, pro rata to such quantities, the pounds of skim milk in receipts of fluid milk products from unregulated supply plants which were not subtracted pursuant to subparagraph (5) (i) of this paragraph;

(9) Subtract from the pounds of skim milk remaining in each class, in the following order, the pounds of skim milk in receipts of fluid milk products in bulk from other order plant(s), in excess in each case of similar transfers to the same plant, which were not subtracted pursuant to subparagraph (5) (ii) of this paragraph;

(i) In series beginning with Class II, the pounds determined by multiplying

the pounds of such receipts by the larger of the percentage of estimated Class II utilization of skim milk announced for the month by the market administrator pursuant to § 1060.32(1) or the percentage that Class II utilization remaining is of the total remaining utilization of skim milk of the handler; and

(ii) From Class I milk, the remaining pounds of such receipts;

(10) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk received in fluid milk products from pool plants of other handlers according to the classification assigned pursuant to § 1060.44(a); and

(11) If the pounds of skim milk remaining in both classes exceed the pounds of skim milk in producer milk, subtract such excess from the pounds of skim milk remaining in each class in series beginning with Class II. Any amount so subtracted shall be known as "overage";

(b) Butterfat shall be allocated in accordance with the procedure outlined for skim milk in paragraph (a) of this section; and

(c) Combine the amounts of skim milk and butterfat determined pursuant to paragraphs (a) and (b) of this section into one total for each class and determine the weighted average butterfat content of producer milk in each class.

MINIMUM PRICES

§ 1060.50 Basic formula price.

The basic formula price shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Wisconsin and Minnesota, as reported by the U.S. Department of Agriculture for the month. Such price shall be adjusted to a 3.5 percent butterfat basis by a butterfat differential rounded to the nearest one-tenth cent computed at 0.12 times the Chicago butter price for the month. The resulting price shall be rounded to the nearest full cent. For the purpose of computing Class I prices from the effective date hereof through April 1968, the basic formula price shall not be less than \$4.05.

§ 1060.51 Class prices.

Subject to the provisions of §§ 1060.52 and 1060.53, the minimum class prices per hundredweight of milk for the month shall be as follows:

(a) *Class I price.* For the first 18 months from the effective date of this section, the price for Class I milk shall be the basic formula price for the preceding month plus \$0.86, and plus 20 cents through April 1968.

(b) *Class II price.* The price for Class II milk shall be the basic formula price.

§ 1060.52 Butterfat differentials to handlers.

For milk containing more or less than 3.5 percent butterfat, the class prices for the month pursuant to § 1060.51 shall be increased or decreased, respectively, for each one-tenth percent butterfat at a rate rounded to the nearest one-tenth cent determined as follows:

(a) *Class I price.* Multiply the Chicago butter price for the preceding month by 0.120;

(b) *Class II price.* Multiply the Chicago butter price for the month by 0.115.

§ 1060.53 Location differentials to handlers.

(a) For producer milk received at a pool plant or diverted to a nonpool plant located 70 miles or more from the city hall in Fargo, N. Dak., or Grand Forks, N. Dak., whichever is nearer, and which is classified as Class I milk or assigned Class I location adjustment credit pursuant to paragraph (b) of this section and for other source milk for which a location adjustment is applicable, the price computed pursuant to § 1060.51(a) shall be adjusted by 10 cents if such plant is located 70 miles or more but less than 80 miles from the nearer of the respective city halls plus an additional 1.2 cents for each 10 miles or fraction thereof that such distance exceeds 80 miles.

(b) For the purposes of calculating such adjustments:

(1) All distances shall be by shortest hard-surfaced highways, as determined by the market administrator;

(2) The adjustment pursuant to this section shall be added to the Class I price if the plant is located in North or South Dakota and shall be subtracted from such price if the plant is located in Minnesota; and

(3) Transfers of fluid milk products between pool plants shall be assigned Class I milk disposition at the receiving plant, in excess of the sum of receipts at such plant from producers (including receipts from a cooperative association as a handler of bulk tank milk pursuant to § 1060.10(c)) and the pounds assigned as Class I milk to receipts from other order plants and unregulated supply plants. Such assignment is to be made first to shipping plants priced at the same price, next to plants having a higher price, and then in sequence to plants having a lower price, beginning with the plant at which the highest price would apply.

APPLICATION OF PROVISIONS

§ 1060.60 Producer-handlers and exempt institutions.

(a) Sections 1060.40 through 1060.46, 1060.50 through 1060.54, 1060.70, 1060.71, and 1060.80 through 1060.88 shall not apply to a producer-handler; and

(b) None of the provisions of this part shall apply to a governmentally owned and operated institution which disposes of Class I milk solely for use on its own premises or to its own facilities. Sales of fluid milk products from a pool plant to such an institution shall be Class I and receipts of fluid milk products at a pool plant from such an institution shall be Class II.

§ 1060.61 Plants subject to other Federal orders.

The provisions of this order shall not apply with respect to a plant of a handler specified in paragraph (a) or (b) of this section except that such handler shall, with respect to his total receipts and disposition of skim milk and butterfat, make reports to the market administrator at such time and in such man-

ner as the market administrator may require and shall allow verification of such reports by the market administrator:

(a) A distributing plant from which the Secretary determines a greater proportion of fluid milk products is disposed of on routes in another marketing area regulated by another order issued pursuant to the Act and such plant is fully subject to regulation of such other order: *Provided*, That a distributing plant which was a pool plant under this order in the immediately preceding month shall continue to be subject to all of the provisions of this part until the third consecutive month in which a greater proportion of its Class I disposition on routes is made in such other marketing area unless, notwithstanding the provisions of this paragraph, it is regulated by such other order; and

(b) A distributing plant which meets the requirements set forth in § 1060.23(a) which also meets the requirements of another marketing order on the basis of its distribution in such other marketing area and from which the Secretary determines a greater quantity of milk is disposed of during the month on routes in this marketing area than is so disposed of in such other marketing area but which plant is nevertheless fully regulated under such other marketing order.

§ 1060.62 Obligation of handler operating a partially regulated distributing plant.

Each handler who operates a partially regulated distributing plant shall pay to the market administrator for the producer-settlement fund on or before the 25th day after the end of the month either of the amounts (at the handler's election) calculated pursuant to paragraph (a) or (b) of this section. If the handler fails to report pursuant to §§ 1060.35(h) and 1060.36 the information necessary to compute the amount specified in paragraph (a), he shall pay the amount computed pursuant to paragraph (b) of this section:

(a) An amount computed as follows:

(1) (i) The obligation that would have been computed pursuant to § 1060.70 at such plant shall be determined as though such plant were a pool plant. For purposes of such computation, receipts at such nonpool plant from a pool plant or an other order plant shall be assigned to the utilization at which classified at the pool plant or other order plant and transfers from such nonpool plant to a pool plant or an other order plant shall be classified as Class II milk if allocated to such class at the pool plant or other order plant and be valued at the uniform price of the respective order if so allocated to Class I milk. There shall be included in the obligation so computed a charge in the amount specified in § 1060.70(f) and a credit in the amount specified in § 1060.84(b)(2) with respect to receipts from an unregulated supply plant, unless an obligation with respect to such plant is computed as specified in subdivision (ii) of this subparagraph.

(ii) If the operator of the partially regulated distributing plant so requests,

and provides with his report pursuant to §§ 1060.35(b) and 1060.36, a similar report with respect to the operations of any other nonpool plant which serves as a supply plant for such partially regulated distributing plant by shipments to such plant during the month equivalent to the requirements of § 1060.23(b), with agreement of the operator of such plant that the market administrator may examine the books and records of such plant for purposes of verification of such reports, there will be added the amount of the obligation computed at such nonpool supply plant in the same manner and subject to the same conditions as for the partially regulated distributing plant.

(2) From this obligation there will be deducted the sum of (i) the gross payments made by such handler for Grade A milk received during the month from dairy farmers at such plant and like payments made by the operator of a supply plant(s) included in the computations pursuant to subparagraph (1) of this paragraph, and (ii) any payments to the producer-settlement fund of another order under which such plant is also a partially regulated distributing plant;

(b) An amount computed as follows:

(1) Determine the respective amounts of skim milk and butterfat disposed of as Class I milk on routes (other than to pool plants) in the marketing area;

(2) Deduct (except that deducted under a similar provision of another order issued pursuant to the Act) the respective amounts of skim milk and butterfat received as Class I milk at the partially regulated distributing plant from pool plants and other order plants;

(3) Combine the amounts of skim milk and butterfat remaining into one total and determine the weighted average butterfat content; and

(4) From the value of such milk at the Class I price applicable at the location of the nonpool plant, subtract its value at the uniform price applicable at such location (not to be less than the Class II price).

DETERMINATION OF UNIFORM PRICE

§ 1060.70 Computation of the net pool obligation of each pool handler.

The net pool obligation of each pool handler as described in § 1060.10 (a), (b), and (c) during each month shall be a sum of money computed by the market administrator as follows:

(a) Multiply the quantity of producer milk in each class as computed pursuant to § 1060.46(c), by the applicable class prices (adjusted pursuant to §§ 1060.52 and 1060.53);

(b) Add the amount obtained from multiplying the pounds of overage deducted from each class pursuant to § 1060.46(a)(11) and the corresponding step of § 1060.46(b) by the applicable class prices;

(c) Add the amount computed from multiplying the difference between the appropriate Class II price for the preceding month and the appropriate Class I price for the current month by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to

§ 1060.46(a)(6) and the corresponding step of § 1060.46(b);

(d) Add (or subtract, pursuant to the proviso of this paragraph) the amount computed from multiplying the difference between the appropriate Class I price of the preceding month and the appropriate Class I price for the current month by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1060.46(a)(3) and the corresponding step of § 1060.46(b): *Provided*, That if the Class I price for the current month is less than the Class I price for the preceding month, the result shall be a minus amount;

(e) Add the amount equal to the difference between the value at the Class I price applicable at the pool plant and the value at the Class II price, with respect to skim milk and butterfat from other source milk subtracted from Class I pursuant to § 1060.46(a)(4) and the corresponding step of § 1060.46(b); and

(f) Add an amount equal to the value at the Class I price adjusted for location of the nearest nonpool plant(s) from which an equivalent volume was received with respect to skim milk and butterfat subtracted from Class I pursuant to § 1060.46(a)(8) and the corresponding step of § 1060.46(b).

§ 1060.71 Computation of uniform price.

For each month the market administrator shall compute a uniform price as follows:

(a) Combine into one total the values computed pursuant to § 1060.70 for all handlers who filed reports pursuant to §§ 1060.35 and 1060.37(b) for the month and who made the payments pursuant to §§ 1060.80 and 1060.84 for the preceding month;

(b) Add or subtract for each one-tenth percent that the average butterfat content of milk represented by the values specified in paragraph (a) of this section is less or more, respectively, than 3.5 percent, the amount obtained by multiplying such difference by the butterfat differential pursuant to § 1060.81 and by multiplying the result by the total hundredweight of such milk;

(c) Add an amount equal to the total value of minus location differentials computed pursuant to § 1060.82(a);

(d) Subtract an amount equal to the total value of the plus location differentials computed pursuant to § 1060.82(a);

(e) Add an amount equal to not less than one-half of the unobligated balance in the producer-settlement fund;

(f) Divide the resulting amount by the sum of the following for all handlers included in these computations:

(1) The total hundredweight of producer milk; and

(2) The total hundredweight for which a value is computed pursuant to § 1060.70(f); and

(g) Subtract not less than 4 cents nor more than 5 cents per hundredweight. The result shall be the "uniform price" for milk received from producers.

PAYMENTS

§ 1060.80 Time and method of payment.

Each handler shall make payment for milk received from producers or cooperative associations as follows:

(a) To each producer for whom payment is not made pursuant to paragraph (b) or (c) of this section:

(1) A final settlement on or before the 15th day after the end of each month during which producer milk was received, at not less than the uniform price for such milk, adjusted by the butterfat differential computed pursuant to § 1060.81, subject to the location adjustment to producers pursuant to § 1060.82, and less the following amounts:

(i) The payments made pursuant to subparagraph (2) of this paragraph;

(ii) Marketing service deductions pursuant to § 1060.87; and

(iii) Any deductions authorized by the producer; *Provided*, That if by such date such handler has not received full payment for such month pursuant to § 1060.85, he may reduce his total payment to all producers uniformly by not less than the amount of reduction in payment from the market administrator; the handler shall, however, complete such payments not later than the date for making such payments pursuant to this paragraph next following receipt of the balance from the market administrator;

(2) A partial payment on or before the last day of each month with respect to producer milk received during the first 15 days of the month at not less than the Class II price for the preceding month (without deduction for hauling);

(b) (1) On or before the 2d day prior to the date payments are due individual producers as specified in this section, pay to a cooperative association which so requests and which the market administrator determines is authorized by its members to collect payments for their milk and which promises in writing to reimburse the handler the amount of any actual loss incurred by him because of any member's claim on the part of the cooperative association of the payments pursuant to paragraph (a) of this section an amount equal to the sum of the individual payments otherwise payable to such producers. The foregoing payment shall be made with respect to milk of each producer whom the cooperative association certifies is a member effective on and after the first day of the calendar month next following receipt of such certification through the last day of the month next preceding receipt of notice from the cooperative association of a termination of membership or until the original request is rescinded in writing by the cooperative association; and

(2) A copy of each such request, promise to reimburse, and certified list of members shall be filed simultaneously with the market administrator by the cooperative association and shall be subject to verification at his discretion through audit of the records of the cooperative association pertaining thereto.

Exceptions, if any, to the accuracy of such certification by a producer claimed to be a member, or by a handler, shall be made by written notice to the market administrator and shall be subject to his determination;

(c) To a cooperative association which is a handler pursuant to § 1060.10 (a) or (c) for milk which it caused to be delivered to such handler:

(1) A final settlement on or before the 13th day after the end of the month in which the skim milk or butterfat was received, an amount equal to not less than the applicable class prices for all skim milk and butterfat so delivered, less the amount of payment made pursuant to subparagraph (2) of this paragraph;

(2) A partial payment on or before the 26th day of each month at not less than the applicable Class II price for the preceding month pursuant to § 1060.51 (a) for all skim milk and butterfat so delivered during the first 15 days of the current month;

(d) In making payments to producers pursuant to paragraph (a) of this section, each handler shall furnish each producer with a supporting statement in such form that it may be retained by the producer, which shall show:

(1) The month and the identity of the handler and of the producer;

(2) The pounds per shipment, the total pounds, and the average butterfat test of milk delivered by the producer;

(3) The minimum rate or rates at which payment to the producer is required under the provisions of §§ 1060.80, 1060.81, and 1060.82;

(4) The rate which is used in making payment, if such rate is other than the applicable minimum rate;

(5) The amount or the rate per hundredweight of each deduction claimed by the handler, including any deduction claimed under paragraph (c) (2) of this section and § 1060.87, together with a description of the respective deductions; and

(6) The net amount of payment to the producer.

§ 1060.81 Butterfat differential to producers.

The uniform price for producer milk shall be increased or decreased for each one-tenth of 1 percent that the butterfat content of such milk is above or below 3.5 percent, respectively, at the rate determined by multiplying the pounds of butterfat in producer milk allocated to Class I and Class II milk pursuant to § 1060.46 by the respective butterfat differential for each class, determined pursuant to § 1060.52, dividing the sum of such values by the total pounds of such butterfat, and rounding the resultant figure to the nearest one-tenth cent.

§ 1060.82 Location differentials to producers and on nonpool milk.

(a) For producer milk received at a pool plant or diverted to a nonpool plant located 70 miles or more from Fargo, N. Dak., or Grand Forks, N. Dak., whichever is nearer (distances to be measured from the city halls in the respective

cities) the uniform price shall be adjusted at the rate set forth in § 1060.53.

(b) For purposes of computation pursuant to §§ 1060.84(b)(2) and 1060.85, the uniform price shall be adjusted at the rates set forth in § 1060.53 applicable at the location of the nonpool plant(s) from which the milk was received.

§ 1060.83 Producer-settlement fund.

The market administrator shall establish and maintain a separate fund known as the "producer-settlement fund" into which he shall deposit all funds received pursuant to paragraph (a) of this section and out of which he shall make all payments required pursuant to paragraph (b) of this section:

(a) Payments made by handlers pursuant to § 1060.62 (a) and (b), and §§ 1060.84 and 1060.86;

(b) Payments due handlers pursuant to §§ 1060.85 and 1060.86: *Provided*, That payments due any handler shall be offset by payments due from such handler pursuant to §§ 1060.62, 1060.84, 1060.86, 1060.87, and 1060.88.

§ 1060.84 Payments to the producer-settlement fund.

On or before the 12th day after the end of the month each handler shall pay to the market administrator the amount, if any, by which the total amounts specified in paragraph (a) of this section exceed the amount specified in paragraph (b) of this section: *Provided*, That payment made by a cooperative association as a handler shall not relieve the transferee handler of any obligation on any such milk which is due the cooperative association, or otherwise due pursuant to §§ 1060.80 through 1060.88:

(a) The sum of:

(1) The total of the net pool obligation computed pursuant to § 1060.70 for such handlers; and

(2) In the case of a cooperative association which is a handler pursuant to § 1060.10(c), the minimum amounts due from other handlers pursuant to § 1060.80 (c) (1); and

(b) The sum of:

(1) The amount required to be paid producers (including payments to producers through cooperative associations) pursuant to § 1060.80 before deductions authorized by the producer or cooperative association or for marketing services pursuant to § 1060.87; and

(2) The value at the uniform price(s) applicable at the location of the plant(s) from which received (not to be less than the value at the Class II price) with respect to other source milk for which a value is computed pursuant to § 1060.70(e).

§ 1060.85 Payments out of the producer-settlement fund.

On or before the 14th day after the end of each month the market administrator shall pay (subject to the proviso of § 1060.83) to each handler the amount if any by which the amount computed pursuant to § 1060.84(b) exceeds the amount computed pursuant to § 1060.84 (a). The market administrator shall offset any payment due any handler against

payments due from such handler. If the balance in the producer-settlement fund is insufficient to make all payments pursuant to this section, the market administrator shall reduce uniformly such payments and shall complete such payments as soon as the necessary funds are available.

§ 1060.86 Adjustment of accounts.

(a) Whenever audit by the market administrator of any handler's reports, books, records, or accounts discloses errors resulting in moneys due the market administrator or any producer or cooperative association from such handler, the market administrator shall promptly notify such handler of the amount due and payment therefor shall be made within 5 days if such amount is due the market administrator, or on or before the next date for making payments to producers or a cooperative association, if such amount is due them. Whenever such audit discloses errors resulting in moneys due such handler from the market administrator, payment shall be made within 5 days.

§ 1060.87 Marketing services.

(a) Except as set forth in paragraph (b) of this section, each handler in making payments to producers other than to himself pursuant to § 1060.80(a)(1) shall deduct 5 cents per hundredweight or such lesser amount as the Secretary may prescribe with respect to all milk received by such handler from producers during the month, and shall pay such deductions to the market administrator not later than the 15th day after the end of the month. Such money shall be used by the market administrator to verify or establish weights, samples, and tests of milk received from, and to provide market information to, such producers. Such services shall be performed in whole or in part by the market administrator or by an agent engaged by and responsible to him.

(b) In the case of producers for whom a cooperative association is performing, as determined by the Secretary, the services set forth in paragraph (a) of this section, each handler shall, in lieu of the deductions specified in paragraph (a) of this section, make such deductions from the payments to be made directly to producers pursuant to § 1060.80(a)(1), as are authorized by such producers and, on or before the 15th day after the end of each month, pay over such deductions to the association (of which such producers are members) rendering such services.

(c) When requested by the cooperative association a statement shall be supplied the cooperative association showing for each producer for whom such deduction is made the amount of such deduction, the total delivery of milk, and unless otherwise previously provided, the butterfat test.

§ 1060.88 Expense of administration.

As his pro rata share of the expense of the administration of the order, each handler shall pay to the market administrator on or before the 15th day after the end of each month four cents per hun-

dredweight or such lesser amount as the Secretary may prescribe with respect to skim milk and butterfat contained in:

(a) Producer milk (including a handler's own farm production);

(b) Other source milk allocated to Class I milk pursuant to § 1060.46(a)(4) and (8) and the corresponding steps in § 1060.46(b); and

(c) Class I milk disposed of in the marketing area from a partially regulated distributing plant that exceeds the hundredweight of Class I milk received during the month at such plant from pool plants and other order plants.

§ 1060.89 Termination of obligations.

The provisions of this section shall apply to any obligation under this part for the payment of money.

(a) The obligation of any handler to pay money required to be paid under the terms of this part shall, except as provided in paragraphs (b) and (c) of this section, terminate 2 years after the last day of the calendar month during which the market administrator receives the handler's utilization report on the milk involved in such obligation unless within such 2-year period the market administrator notifies the handler in writing that such money is due and payable. Service of such notice shall be complete upon mailing to the handler's last known address and it shall contain, but need not be limited to, the following information:

- (1) The amount of the obligation;
- (2) The months during which the milk, with respect to which the obligation exists, was received or handled; and
- (3) If the obligation is payable to one or more producers or to an association of producers, the name of such producers or association of producers, or if the obligation is payable to the market administrator, the account for which it is to be paid.

(b) If a handler fails or refuses, with respect to any obligation under this part, to make available to the market administrator or his representatives all books and records required by this part to be made available, the market administrator may, within the 2-year period provided for in paragraph (a) of this section, notify the handler in writing of such failure or refusal. If the market administrator so notified a handler, the said 2-year period, with respect to such obligation, shall not begin to run until the 1st day of the calendar month following the month during which all such books and records pertaining to such obligation are made available to the market administrator or his representatives.

(c) Notwithstanding the provisions of paragraphs (a) and (b) of this section, a handler's obligation under this part to pay money shall not be terminated with respect to any transaction involving fraud or willful concealment of a fact, material to the obligation, on the part of the handler against whom the obligation is sought to be imposed.

(d) Any obligation on the part of the market administrator to pay a handler any money which such handler claims to be due him under the terms of this part

shall terminate 2 years after the end of the calendar month during which the milk involved in the claim was received if an underpayment is claimed, or 2 years after the end of the calendar month during which the payment (including deduction or setoff by the market administrator) was made by the handler if a refund on such payment is claimed, unless such handler, within the applicable period of time files pursuant to section 8c(15) (A) of the Act, a petition claiming such money.

EFFECTIVE TIME, SUSPENSION OR TERMINATION

§ 1060.90 Effective time.

The provisions of this part, or any amendments hereto, shall become effective at such time as the Secretary may declare and shall continue in force until suspended or terminated pursuant to § 1060.91.

§ 1060.91 Suspension or termination.

The Secretary may suspend or terminate any or all of the provisions of this part after such reasonable notice as the Secretary shall give whenever he finds that it obstructs or does not tend to effectuate the declared policy of the Act. This part shall, in any event, terminate whenever the provisions of the Act authorizing it cease to be in effect.

§ 1060.92 Continuing obligations.

(a) If, upon the suspension or termination of any or all of the provisions of this part, there are any obligations arising hereunder, the final accrual or

ascertainment of which requires further acts by any handler, by the market administrator, or by any other person, the power and duty to perform such further acts shall continue notwithstanding such suspension or termination: *Provided*, That any such acts required to be performed by the market administrator shall, if the Secretary so directs, be performed by such other person, persons, or agency as the Secretary may designate.

(b) The market administrator or such other person as the Secretary may designate shall (1) continue in such capacity until removed by the Secretary; (2) from time to time account for all receipts and disbursements and deliver all funds or property on hand together with the books and records of the market administrator or such person, to such person as the Secretary shall direct; and (3) if so directed by the Secretary, execute assignments or other instruments necessary or appropriate to vest in such person full title to all funds, property and claims vested in the market administrator or such person pursuant thereto.

§ 1060.93 Liquidation.

Upon the suspension or termination of the provisions of this part, except this section, the market administrator, or such liquidating agent as the Secretary may designate shall if so directed by the Secretary, liquidate the business of the market administrator's office, dispose of all property in his possession or control, including accounts receivable, and ex-

ecute and deliver all assignments or other instruments necessary or appropriate to effectuate any such disposition. If a liquidating agent is so designated, all assets, books, and records of the market administrator shall be transferred promptly to such liquidating agent. If upon such liquidation, the funds on hand exceed the amounts required to pay outstanding obligations of the office of the market administrator and to pay necessary expenses of liquidating and distribution, such excess shall be distributed to contributing handlers and producers in an equitable manner.

MISCELLANEOUS PROVISIONS

§ 1060.100 Agents.

The Secretary may, by designation in writing, name any officer or employee of the United States to act as his agent or representative in connection with any of the provisions of this part.

§ 1060.101 Separability of provisions.

If any provision of this part, or its application to any person or circumstances, is held invalid, the application of such provision, and of the remaining provisions of this part, to other persons or circumstances shall not be affected thereby.

Signed at Washington, D.C., on April 28, 1967.

CLARENCE H. GIRARD,
Deputy Administrator,
Regulatory Programs.

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